

MISRA COMMISSION REPORT

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ABBREVIATIONS

AIIMS - All India Institute of Medical Sciences

BRVRC - Bokaro Riot Victims Rehabilitation Committee

CCPH - Citizens Committee for Pace & Harmony

CJC - Citizens Justice Committee

DSGMC - Delhi Sikh Gurdwara Management Committee

KRICC - Kanpur Riots Inquiry Coordination Committee

A Brief

After rejecting all demands for a judicial inquiry for over five months, the Rajiv Gandhi finally appointed a Commission in April 1985 under the chairmanship of a sitting Supreme Court judge Ranganath Misra.

According to its terms of reference, the object of the Misra Commission was to inquire into “the allegations in regard to the incidents of organised violence” which took place in Delhi. Misra interpreted this to mean that his job was only to find out whether the violence in Delhi was organised or not. His finding was that the violence was initially spontaneous and, as the police failed to act promptly, anti-social elements took over and organised the carnage that followed.

Misra did not however identify those anti-social elements, much less did he explain why the police either failed to act against them or in several cases even colluded with them. The Commission categorically ruled out the possibility of the Congress Party and the Rajiv Gandhi Government having a hand in the holocaust. The only political involvement Misra conceded was that Congress workers had on their own participated in the violence.

It did not seem to matter much to the Misra Commission that its findings were hardly convincing. The report is breath-taking crude in its reasoning and vindicates the apprehensions that led the Citizens Justice Committee, the main representative of the victims, to withdraw from the Commission’s proceedings at an advanced stage.

A subsequent Congress Government headed by P.V. Narasimha Rao, who was home minister during the carnage, rewarded Misra by appointing him the first chairman of (all the things), the National Human Rights Commission.

Later, Misra himself put a question mark over the integrity of his inquiry by joining the Congress party and becoming its Rajya Sabha member. About two years ago, Parliament sought to atone for all these sordid happenings by passing a unanimous resolution in support of the Vajpayee Government’s decision to order a fresh judicial inquiry into the 1984 carnage in the form of the Justice G.T. Nanavati Commission.

Here are a few frequently asked questions about the cover-up of the massacre by the Misra Commission.

(1) Why did the Citizens Justice Committee withdraw from the proceedings of the Misra Commission at an advanced stage?

(a) There were several reasons why the CJC felt compelled to withdraw from the proceedings. The most important reason was the Commission’s overweening concern for secrecy. Misra approached the inquiry with a pre-determination to hold all the proceedings in camera. One of the rules of

procedure he framed right at the beginning said that the proceedings would be held in camera “unless directed otherwise.”

This is in contrast to the normal practice of holding an inquiry in public to ensure that justice is not only done but also seems to be done. As if the idea of shutting out the public was not bad enough, Misra excluded even the CJC from more and more areas of the inquiry. The CJC estimated that more than three-fourth of the inquiry was kept out of its reach. Misra’s secretive methods, rather uncharacteristic for a judge, betrayed his anxiety to give a clean chit to the Rajiv Gandhi Government and Congress leaders.

The last straw was Misra’s announcement at an advanced stage of the inquiry that there was no need to summon any of the dignitaries the CJC wanted to question because he had already examined most of them in the privacy of his chamber. In its 18-page submission announcing its withdrawal from the inquiry on March 31, 1986, the CJC evocatively described that innovation of Misra as “an in camera inquiry within an in camera inquiry.”

(2) Why did the Misra Commission not permit the Citizens Justice Committee to cross examine the persons in authority during the massacre?

(a) Take the nine dignitaries the Citizens Justice Committee wanted to cross-examine. They included P.G. Gavai, who was the governor and administrator of Delhi during the massacre, M.K. Wali, who replaced Gavai subsequent to the riots, and Subhash Tandon, who was the police commissioner of the Capital during the fateful period.

It is self-evident that each of those high office holders was indispensable for the CJC to establish its allegation of complicity against the Government and Congress Party. The Commission admitted in its report that it was asked repeatedly to permit cross examination of those public officials. And it even admitted to have turned down that request simply because “it was of the view that that it would not be expedient to allow cross-examination.”

Misra did not deign to give any reason for why he considered it inexpedient to allow cross-examination of those dignitaries who were best positioned to throw light on the CJC’s allegation that the violence was organised by the powers that be. His silence can mean only one thing: He knew that he would not have been able to exonerate the Rajiv Gandhi Government and the Congress Party if he permitted the normal procedure of subjecting all the witnesses, no matter how highly placed, to cross examination.

(3) Why do you think cross examining persons in authority should have been considered indispensable to the inquiry into the 1984 massacre?

(a) It is not just in the case of the 1984 massacre. Cross examination is a must for any inquiry commission as also for any trial court. Nowhere in the civilised world is anybody’s testimony taken to be true unless it has gone through and withstood the test of cross examination. If a witness is permitted

to narrate his version without fear of cross examination from the other side, it amounts to giving him a licence to concoct anything with impunity.

The rule of cross examination applies even to high office holders. That is why so many other inquiry commissions have subjected Cabinet ministers to cross examination. In the fifties, the then finance minister, T.T. Krishnamachari, was cross examined before the M.C. Chagla Commission probing the Mundhra scam. More recently, Cabinet ministers L.K. Advani, Murli Manohar Joshi and Uma Bharati were cross examined before the Liberhan Commission probing the demolition of the Babri Masjid and George Fernandes was cross examined before the Venkataswami Commission probing the Tehelka defence deal controversy.

Needless to add, the cross examination of all those VIPs took place in public and the press could therefore publish their reports on the basis of first-hand information. But the standards adopted by Misra were rather different. He did not permit the cross examination of any of the public officials and, since whatever happened was all in camera, the question of the press reporting any of that did not arise at all.

(4) How did the Misra Commission react to the withdrawal of the Citizens Justice Committee?

(a) Misra made no bones about the fact that the CJC's withdrawal was a blow to the credibility of his inquiry. While admitting that its withdrawal created "some amount of embarrassment in the working of the Commission," Misra recorded his "disapproval of the manner in which the CJC withdrew from the proceedings. "But oddly enough Misra did not mention anywhere in his report a single line from the 18-page withdrawal statement of the CJC.

Instead, he reproduced the contents of a letter the CJC wrote subsequently at his instance saying its withdrawal did not "in any manner imply a lack of personal confidence in your Lordship or any mark of disrespect for the Commission. "That was merely an expression of courtesy but Misra reproduced the letter in entirety, that too not once but twice. Clearly, he was seeking to salvage some credibility by clutching at that letter of CJC as evidence of his integrity.

(5) Were the victims left in the lurch because of the withdrawal of the Citizens Justice Committee?

(a) On the contrary, the CJC did a great service to the cause of the victims by recording in its withdrawal statement the farcical nature of the Misra Commission's inquiry. If anything, the so-called findings that the Misra Commission came up with subsequently vindicated the CJC's apprehensions about the object of the whole exercise. When the CJC withdrew on March 31, 1986, what was still left to be done was the last lap of evidence and then presents arguments on the entire material recorded by the Commission. The Delhi Sikh Gurdwara Management Committee represented the victims for the remainder of the proceedings, for whatever they were worth.

(6) India is known for its free and vigilant press. Did they not come down heavily on all those dubious activities of the Misra Commission?

(a) No, they did no such thing when the proceedings were on. On the contrary, it was the Misra Commission that came down heavily on the press. For all the courage and independence the press displayed in reporting the 1984 massacre, and for all the service they rendered subsequently by keeping the issue alive, they somehow gave in at that particular moment to the bullying of the Misra Commission.

The bone of contention was whether the press could circumvent Misra's in camera proceedings and publish reports of the hearings on the briefing of unnamed sources. The controversy arose in the last week of January 1986 when the Commission came to the stage of recording evidence (meaning, when witnesses started giving their testimonies).

The reports that came on the first two days of evidence were acutely embarrassing to Misra and threatened to give away his game of fixing the inquiry in favour of Congress leaders. On the third day, the Commission passed a gag order threatening to take action against newspapers that continue to carry reports on the proceedings.

Misra succeeded in having his way with the press even though he had no authority in law to pass any gag order. No newspaper dared to test his claim or challenge his order. Misra rewarded the press with a dubious compliment: "The Commission places on record that the press has mostly behaved responsibly and was co-operative after the direction was given."

(7) What was so embarrassing to the Misra Commission in the press reports that came on the proceedings of the first two days of recording of evidence?

(a) The press reports inadvertently betrayed a conspiracy of "counter affidavits. "Out of a total of 2,905 affidavits received by the Commission, only 639 affidavits were filed by the victims or in support of them. The rest of the affidavits were all against the victims. The Misra Commission should have found it odd if there was even a single affidavit against Sikhs in the context of their massacre. Yet, there were about three counter affidavits for each affidavit filed from the side of the victims.

When the Commission started recording evidence, it summoned six to seven witnesses from each of the two sides. But as it happened, on the first two days hardly anyone came to depose from among those who filed the counter affidavits. The ones who came either denied having filed those counter affidavits or ended up contradicting the statements attributed to them.

Much to the embarrassment of Misra and the sponsors of the counter affidavits, these tell-tale developments in the in camera proceedings found their way into newspapers. The tenor of the reports made it clear to Misra that

his cover up was in danger of being exposed if he did not immediately find a way to stop the press from reporting his proceedings, hence the gag orders.

(8) Could the Misra Commission not have decided to hold the proceedings in camera simply because the inquiry was sensitive and Punjab was then still wracked by secessionist militancy?

(a) First of all, it must be pointed out that even the Commission did not make such a claim about its decision to hold the entire inquiry in camera. In fact, it suppressed the fact that it had framed a rule at the outset stipulating that the proceedings would be held in camera “unless directed otherwise.” Instead, it made out in its report that it began to hold the proceedings in camera only after “wrong reports started featuring in the press” and “when evidence came to be taken, tainted news appeared with greater frequency.”

Misra blamed the CJC for all those allegedly distorted reports without however explaining why the fourth estate in the first place had to depend entirely on the CJC for information. Misra did not want to admit that he had made up his mind to hold the inquiry in camera long before the journalists could have given him any reason to lose faith in their integrity or ability.

(9) What did the Misra Commission say about the many affidavits filed against the victims of the massacre?

(a) Misra did not discuss them at all. This seems to have been mainly to avoid mentioning that most of those 2,200 affidavits were stereotyped.

The same set of assertions was repeated in many affidavits in more or less the same language. In fact, in a lot of those counter affidavits all that the deponent did was to fill his personal details with his hand in the blanks and affix his signature at the end.

Not surprisingly, the stereotyped affidavits had no evidence to offer. They were low on facts and high on opinion: Their thrust was to make a bald assertion that the violence on the Sikhs was entirely spontaneous and not organised at all.

But when some of those deponents appeared before the Commission in the first round of evidence, they repudiated the affidavits attributed to them and came out with shocking details of how some Congress members and other interlopers tricked them into signing those documents.

This forced Misra to keep aside the counter affidavits for a good part of the inquiry. But he kept silent about all this in his report because it would have betrayed the fact that there was an organised effort before him to make out that the massacre was not organised.

(10) How could the Misra Commission have not seen the stereotyped nature of the counter affidavits as evidence of a conspiracy to shield culprits of the 1984 carnage?

(a) It of course did not want to draw such an inference because that would have knocked the bottom out of its so-called finding that the Rajiv Gandhi Government and Congress party were not involved in the organisation of the massacre. So, far from rejecting their authenticity, Misra pressed some of the counter affidavits into service in the last lap of evidence to give a clean chit to H.K.L. Bhagat, the most important Congress leader from Delhi alleged to have been involved in the violence.

Why did the Commission at one stage keep aside the counter affidavits and why did it later change its mind and consider some of them? There is no answer to this vital question anywhere in the report. This despite its claim to the contrary in its report: "The Commission has dealt with these affidavits separately and for reasons indicated there not much of reliance has been placed on most of these affidavits."

(11) If the Misra Commission exonerated the Rajiv Gandhi Government and Congress party, who did it blame for the massacre?

(a) It blamed the police and an amorphous, anonymous entity called "anti-social elements." The Commission said that the violence started spontaneously on the evening of October 31, 1984 around the time Indira Gandhi's death was announced. The violence intensified the following day, according to the Commission, for two reasons. First, the failure of the police to nip it in the bud. Second, the entry of anti-social elements who converted the spontaneous violence into an organised attack. The highest office holder the Commission censured for negligence was P.G. Gavai, who was Delhi's IT governor during the violence and was anyway sacked while the killings were still going on.

(12) Did the Misra Commission not consider the possibility of the police having failed to curb the violence because of pressure from above?

(a) The Commission gave a categorical finding that the main reason for the failure of the police was a communication breakdown. The police stations failed to convey to their control rooms or superior officers the magnitude of the violence taking place in their territories. Additional Commissioner of Police H.C. Jatav, for instance, told the Commission that he received information about Trilokpuri, the worst affected area in the whole of Delhi, only on the evening of November 2, 1984.

Jatav claimed that there was an 18-hour delay in the communication even though Trilokpuri is barely 12 km from the police headquarters. Since the top brass was thus apparently unaware of the alarming proportions of the violence till a late stage, there was a delay in enforcing curfew and deploying reinforcements. Again, because of this communication breakdown within the police force, the Commission held that there was no question of attributing any negligence, much less complicity, to the Rajiv Gandhi Government.

(13) What reasons did the Misra Commission give for the negligence of the policemen in the field during the massacre?

(a) Anything but pressure from their higher-ups or top political leaders. He had no proper explanation to offer for why the staff manning the police stations failed to communicate on time with their superiors. All he could say was that some of the policemen were evidently too distressed by the fact that Indira Gandhi was assassinated by two of their colleagues. But then that does not explain the instances found by the Commission in which the police either looked the other way or instigated the mobs.

Worse, the Commission also found instances when the police, rather than nabbing the miscreants, disarmed Sikhs acting in self-defence and arrested them on trumped up charges. To any reasonable person, such behaviour would have aroused the suspicion that policemen acted as henchmen of political leaders during the massacre. But the closest the Commission came to attributing the acts of omission and commission of the police to any interference was when it referred to "local political pressure. "Even then, the Commission refrained from examining the sources of that local political pressure.

(14) Who are these anti-social elements who are supposed to have on their own mounted an attack on Sikhs in the Capital on such a large scale and got away with it?

(a) The Misra Commission made no effort to identify the so-called anti-social elements although they were in its opinion the main culprits. In fact, the whole idea of passing the buck to unnamed anti-social elements seems to have been to deflect attention from the specific names thrown up by the victims and witnesses.

Misra simply said that the anti-social elements belonged to the poor sections of the population living in slums in and around Delhi. He also took pains to clarify that they did not belong to the Congress party and that is why so many victims found them to be, he said, in a jubilant mood as they indulged in arson, loot and killings apparently in retaliation to Indira Gandhi's assassination. The most Misra conceded was the likelihood of Congress workers joining the anti-social elements in the riots.

(15) If it acknowledged the role of Congress workers in the massacre, how could the Misra Commission exonerate the party?

(a) It had the gall to say that the Congress party could not be blamed for the very reason the Sikh community as such could not be held responsible for the action of two Sikhs who killed Indira Gandhi. "Every person who takes a dip in the Ganges is not purified. Similarly, everyone in the Congress (I) is not a Gandhi believing and practising non-violence.

The party label, therefore, does not attract the party nor take away the individual element, "rationalised Misra. Even though he never called the

Congress party for an explanation, Misra on his own took great pains to defend the organisation he was going to join in the future. He said: "The Congress party at the lower level – like any political party anywhere – has loose ends and from the fact of participation of people belonging to the party at that level it is difficult to accept the stand that the Congress (I) party had either organised or participated as such in the riots."

(16) What reasons did the Misra Commission give for finding the Congress leadership in general blameless for the massacre meant to avenge Indira Gandhi's assassination?

(a) Misra made no pretence of arriving at that conclusion in the manner of a judge. He dismissed the allegation against the Congress party without even feeling the need to call for its explanation. Going purely by his personal predilection, Misra gave a pseudo-scientific explanation for justifying his belief. Had the Congress party been involved, the magnitude of the violence, he suggested, would have been even greater and neither the police nor the combined defence of the local citizens would have been effective anywhere in Delhi. "If the Congress (I) party or a powerful force in the party played any role, neither of these two elements could have functioned in the manner each of them has been ascribed," he said.

(17) How did the Misra Commission indict 19 Congress workers if there was no proper inquiry?

(a) That the Misra Commission indicted 19 Congress workers is a myth. Congress leaders have been propagating to save their faces. Indictment suggests that the Commission had issued notices to those workers and considered the allegations levelled against each of them. In reality, he did no such thing nor did he even pretend to have conducted such an inquiry. He examined the subject only in terms of broad sweeps.

Since he conceded the likelihood of Congress workers participating in the riots, he said he had "no particular reason to disbelieve the allegations so tabulated" "against 19 workers by the Delhi Sikh Gurdwara Management Committee in its written arguments.

(18) Did the Misra Commission go into the conduct of the Congress party in the context of the massacre?

(a) Yes, it did, but only in terms of the resolutions passed by it at the Central and state levels. Thus, the Congress party got a clean chit because it had done its paper work alright. "In the face of these resolutions of November 1, 1984, by the Central and Union Territory party organs, it is indeed difficult to allege, much less discover, unseen hands of the party behind the violence perpetrated so dastardly," the Commission observed.

Misra set much store by the fact that several Sikhs belonging to the Congress party were also not spared by the rioters. On the basis of a highly questionable assumption, Misra said: "If the Congress (I) party or some of its

highly placed leaders had set the rioters to operate, one would expect the Sikhs with Congress base and affinity to have escaped the depredation.”

(19) How did the Misra Commission exonerate H.K.L. Bhagat despite the fact that his constituency of east Delhi was the worst affected in the violence?

(a) Besides Rajiv Gandhi, Bhagat is the only Congress leader to have been specifically exonerated by the Misra Commission. Misra did this honour to Bhagat not only because he was the sole representative of Delhi in Indira Gandhi's council of ministers. Bhagat was also at the centre of two conflicting sets of affidavits on his role in the riots. In fact, most of the 2,000-odd counter affidavits were filed mostly in support of Bhagat. In a manner that befits no judge, Misra chose to record evidence on Bhagat without issuing any notice to him. Bhagat on his part did not protest because he was probably had fore-knowledge of the outcome of the inquiry.

Bhagat's confidence was not misplaced as Misra himself came up with purely extra-legal arguments to reject all allegations against him. For instance, noting the fact that some Sikhs had filed affidavits in his favour, Misra said: “If Shri Bhagat had indeed played the role of an organiser of the riots, it is difficult to find even a single Sikh supporter in his camp. “Further, in a gratuitous display of respect for Bhagat, Misra said he “being a sitting MP and minister was not likely to misbehave in the manner alleged... People of the Sikh community being electors of his constituency, Shri Bhagat, keeping the democratic politician's behaviour towards the elector in view, were not likely to antagonise the Sikh sympathy towards him.”

(20) What exactly were the grounds on which Rajiv Gandhi himself was given a clean chit by the Misra Commission?

(a) While H.K.L. Bhagat figured in hundreds of affidavits one way or the other, there were only two affidavits pertaining to Rajiv Gandhi – and both against him. But the Misra Commission report had nothing but high praise for Rajiv Gandhi who took charge as Prime Minister within hours of his mother's assassination. Without giving any indication of the source of his evidence, Misra recorded a finding that on the very night of the assassination, Rajiv left instructions to alert and, if need be, call in the Army. Holding that Rajiv took “all reasonable steps expected of him to meet the situation,” Misra said he even visited affected areas on November 2 against security advice and “boosted the morale of the victims.”

Misra therefore said that Rajiv's peace appeals to the nation on October 31 and November 1, his condemnation of the riots “in strong terms” his decision to sack Lt Governor of Delhi P.G. Gavai on November 3 and “the overall posture adopted against the mad crowd leave no scope to entertain the allegation in a couple of affidavits that he too had something to do to help the unseemly situation.”

Introduction

A) Setting up of the Commission

On April 26, 1985, the Central Government announced in Parliament then in session, the appointment of a Commission under section 3 of the Commissions of Inquiry Act, 1952, and by Notification in the Gazette of India Extraordinary of the same date this Commission was duly constituted with the following terms of reference:

- (i) to inquire into the allegations in regard to the incidents of organised violence which took place in Delhi following the assassination of the late Prime Minister, Smt. Indira Gandhi;
- (ii) to recommend measure which may be adopted for prevention of recurrence of such incidents.

Following the accord between the Prime Minister of India and the late Shri Harchand Singh Longowal, the Akali leader, on July 24, 1985, the Commission's sphere of inquiry was extended to Kanpur in the State of Uttar Pradesh and Bokaro in the State of Bihar by Notification dated September 3, 1985. After the Commission visited Bokaro for a preliminary inquiry, it transpired that the major part of the incidents took place within the Chas area which was outside Bokaro Tehsil and on a reference made by the Commission indicating this fact, the Central Government modified the terms of reference by Notification dated October 10, 1985, to cover the incidents within the Bokaro Tehsil as also the Chas Tehsil. The first aspect referred to the Commission now reads thus:

"to inquire into the allegations in regard to the incidents of organised violence which took place in Delhi and the disturbances which took place in the Bokaro Tehsil, in Chas Tehsil and at Kanpur following the assassination of the late Prime Minister Smt. Indira Gandhi."

Following the assassination of the late Prime Minister, there was riotous upsurge at Delhi and several other places in the country. Hundreds of Sikhs were killed; several others were injured and manhandled; their houses and other properties were burnt down as a result of arson; many of them were rendered homeless. The Home Minister made a statement on the floor of the Rajya Sabha that the number of Sikhs killed in Delhi during November 1984 riots was 2146; 586 persons were said to have been killed in other parts of the country during that period.

From the terms of reference it is clear that so far as Delhi riots are concerned the commission has to inquire into the allegations in regard to incidents of "organised violence" while in regard to the other named places the inquiry is into the disturbance following the assassination of the late Prime Minister, Smt. Indira Gandhi. The effect of the distinction would be appropriately dealt with at the relevant place.

B) Functioning of the Commission

On June 1, 1985, Shri R L. Gupta, a member of the Delhi Higher Judicial Service, reported to duty as Secretary to the Commission. On July 6, 1985, the building at 5, Dr. Rajendra Prasad Road was placed at the disposal of the Commission for housing the Commission's establishment. Provision for furniture and furnishing the building in order to make the rooms suitable took some more time.

On July 9, 1985, the Notification by the Commission inviting all persons acquainted with the subject-matter of inquiry to furnish to the Commission information in the form of affidavits relating to the allegation in regard to the incidents of organised violence which took place in Delhi following the assassination of Smt. Indira Gandhi and the measures that may be adopted to prevent recurrence of such incidents was duly published in 25 newspapers with wide circulation of which 6 were English, 7 Hindi, 5 Urdu and 7 Punjabi. A month's time was allowed for filing of such affidavits.

One of the first groups which came before the Commission was styled as "Citizen Justice' Committee". It maintained that several well-placed public spirited persons, including Mr. Justice S.M. Sikri, a retired Chief Justice of the Supreme Court of India, Mr. V.M. Tarkunde, a former Judge of the Bombay High Court and now a Senior Advocate of the Supreme Court, Mr. Soli J. Sorabjee, a Senior Advocate of the Supreme Court, Air Chief Marshal Arjan Singh (Retd.) and Lt. Gen. J.S. Aurora (Retd.) were, among others, members of the Committee and the object of the Committee was to protect the interests of the riot victims belonging to the Sikh community. By Order dated July 29, 1985, the Commission accorded recognition to the Committee as the representative body of the riot victims.

Since the conduct of the Delhi Police was under cloud and as in the inquiry that was to follow investigation into allegations of dereliction of duty on their part was likely to be inquired into, the Commission directed that an independent Investigation Agency be constituted excluding Delhi Police and accordingly made an order for the setting up of such an Agency.

Grievance was made that the victims were afraid of filing affidavits disclosing the true state of affairs as such disclosure was bound to be against people in the party in power, officers of Government and mainly the police as also influential persons of the respective localities. Initially the Commission was of the view that unless concrete incidents were placed before it, it would be difficult to assume genuine basis for such apprehension. By August 9, 1985, which as the last date for receipt of affidavits in terms of the Commission's Notification, a solitary affidavit had been received.

The Commission, therefore, extended the time for receipt of affidavits by one further month and issued fresh Notification in several newspapers publicising the fact of such extension. The information was also duly given out through the All India Radio and Doordarshan. Within the extended time, 2905 affidavits were received by the Commission in regard to the incidents of Delhi.

With the inclusion of Kanpur, Bokaro and Chas, public notice relating the Kanpur was directed to be issued on September 9, 1985, requiring affidavits to be filed by October 29, 1985. The said Notification was issued in 5 newspapers having circulation in Kanpur area of which 4 were English, 5 Hindi and 6 Urdu. Kanpur was subjected to unusual floods in October 1985 and on that ground the Commission allowed extension till November 14, 1985. The Chief Metropolitan Magistrate of Kanpur was authorised to receive affidavits that may be presented before him. Parties were given the liberty to personally file or send their affidavits by post to the office of the Commission at Delhi. Within the extended period a total number of 675 affidavits were received from Kanpur.

With the amended Notification with reference to Bokaro and Chas, public notice was ordered to be issued on October 11, 1985, and was actually published in 11 newspapers of which 4 were English and 7 Hindi, requiring affidavits to be filed within 30 days therefrom. Time was extended up to December 5, 1985. Option was given to the persons intending to file affidavits before the Commission either to send them by post or have the same filed in person at Delhi or to file them before the Judicial Magistrate Chas. In all, 172 affidavits relating to incidents in Bokaro and Chas were filed before the Commission. Appropriate consent had been taken from the High Courts of Patna and Allahabad for availing the services of the respective Judicial Officers.

Though the CJC wanted the inquiry for all the four places to be conducted at Delhi, the Commission found that there were locally based parties who had come forward to participate in the inquiry in response to its Notifications and to have the inquiry conducted at Delhi would not be convenient to them. Several affidavits had been filed by inhabitants of these areas who also wanted the inquiry to be conducted locally. The Commission, therefore, directed that the inquiry would be separately done at the respective places. On account of proximity and on the representation of parties inquiry for Chas was directed to be also done at Bokaro.

The State Governments of Bihar and Uttar Pradesh were accordingly requested to provide suitable accommodation at the two places for the sittings of the Commission and without much delay appropriate accommodation was placed at the disposal of the Commission at both the places.

C) Representation of parties

Different groups and parties applied to the Commission at the three places for being allowed to participate in the inquiry. These applications were made at different times and were disposed of as and when made. On October 18, 1985, the Commission directed a consolidated list of individuals and / or societies permitted to participate before the Commission in respect of the inquiry at Delhi to be drawn up and notified. The Commission did not intend to shut out the inflow of information and, therefore, accepted all the requests.

The following were the groups or societies which were permitted so far as the inquiry at Delhi is concerned:

Citizens Justice Committee;

Shiromani Akali Dal;

Delhi Sikh Gurdwara Management Committee;

Citizens'Committee for Peace and Harmony;

Vidhi Chetna;

Citizens Forum for Truth;

Arya Samaj (Nagrik Suraksha Samiti).

Apart from these, the Union of India and the Delhi Administration were to participate in the inquiry. An application was filed on behalf of Nagrik Ekta Manch for being permitted to participate in the inquiry. The Commission did not agree to accede to the request but gave limited leave to the Manch to appear before it and participate in the inquiry confined to cross-examination of deponents from whom the Manch claimed to have obtained some affidavits and filed the same before the Commission. On January 10, 1986, two applications were filed, one on behalf of People's Union for Democratic Rights and the other on behalf of People's Union for Civil Liberties. The Commission refused to accept these applications by order dated January 21, 1986.

At the inquiry at Kanpur, the Citizens Justice Committee, the Kanpur Riots Inquiry Co-ordination Committee, All India Motor Transport Congress, U.P. Motor Transport Association, City Lok Dal, Akali Dal (Master Tara Singh Group), National Integration Central Peace Committee and Arya Pratinidhi Sabha, appeared and asked for permission to be represented in the inquiry. By order dated December 12, 1985, the Commission accorded permission to each of them. The Kanpur Youth Bar Association agreed to get represented by an Advocate during the hearing when the prayer on its behalf was not accepted. On that day the Commission directed that no further request for being impleaded/ represented in the inquiry would be accepted. The Union of India and the Government of Uttar Pradesh were duly represented before the Commission at the Kanpur inquiry.

On January 13, 1986, an application was made by the Secretary-General, All India Quami Ekta Committee, Kanpur, for being impleaded as a party before the Commission. By an order of that date, after hearing the applicant through its Advocate, the application was rejected. The Commission has been informed that a writ petition was filed in the Allahabad High Court challenging the order and when the High Court declined to interfere an unsuccessful attempt was made before the Supreme Court.

In the inquiry at Bokaro, the CJC, the Guru Singh Sabha, Bokaro Riot Victims Rehabilitation Committee, apart from the Government of Bihar and Union of India, appeared. Twenty local groups filed applications on December 13, 1985, for being impleaded. By then the last date for filing of affidavits had expired and by an order made on that day, the Commission indicated that no opportunity would be available to the parties to file any affidavit but leave was granted to them to watch the proceedings, if they so liked, with liberty to suggest questions to the Commission in course of cross examination of witnesses, if any Parties appearing before the Commission for the Delhi inquiry were called upon to disclose their stand in writing in regard to the first aspect referred to it. The CJC adopted the following stand: -----

"From the materials available to the Committee, *prima facie*, it appears that the violence in Delhi was premeditated, organised and was perpetrated methodically in a systematic manner so far as to lead to the irresistible conclusion of central direction, guidance and control. This task was without doubt performed with the complicity, connivance and active involvement of the administration as well as the members of the ruling party. "

The Delhi Sikh Gurdwara Management Committee adopted an allied stand by stating:

"The stand of the DSGMC is that the mass violence and carnage which took place in Delhi and other parts of the country from 31st October to 7th November, 1984, on the assassination of the Hon'ble the then Prime Minister, Shrimati Indira Gandhi, was an organised violence. It was committed in the same pattern not only in Delhi but also in other parts of the country including and Bokaro against the Sikh community."

The Shiromani Akali Dal (L) adopted this stand. The Nagrik Suraksha Samiti (Arya Samaj) adopted the following stand:

"The stand of the Samiti is that the riots, arson and looting which took place in the wake of assassination of Smt. Indira Gandhi were not the handiwork of any organised group of people. To say that the riots were organized is wholly incorrect. The fact and the truth of the matter is that riots, arson and looting which took place immediately on the assassination of Smt. Indira Gandhi were all sporadic and spontaneous and got erupted on grave provocation and anger on account of the tragic assassination of the late Prime Minister, Shrimati Indira Gandhi who was greatly loved and respected by the people at large.

Mrs. Gandhi's tragic assassination aroused a sudden and tremendous feeling of shock, distress and an uncontrollable anger amongst the people. A section of the people who could not control themselves reacted sharply; and in the spate of anger, went on a spree killing, looting and burning shops and houses belonging to members of the Sikh community. The said unidentified section of the people had in their mind the events that had taken place in Punjab earlier and had known the atrocities committed by some members of the Sikh community as extremists. The assassination of Smt. Gandhi was the most

heinous and sinful act of a handful of Sikhs but the people in their anger went to take revenge on members of the Sikh community as the assassins belonged to the said community....."

Some other parties took a similar stand.

The Union of India did not adopt any stand and informed the Commission that the question has to be inquired into and decided by the Commission and Central Government had no view to express. It assured all co-operations in the inquiry and said that the Report was awaited.

The Delhi Administration denied the allegation of organised violence and stated that all possible steps were taken to quell the riots at shortest time possible.

At Kanpur, the Kanpur Riots Inquiry Co-ordination Committee which emerged as the spokesman of the victims implicated the District Administration -- the District Magistrate and the Police in the main -- for what happened and also contended that the riots were organized. The State Government, on the other hand, denied all that and maintained that every possible step had been taken to meet the riotous situation and restore normalcy.

At Bokaro, on behalf of the victims the stand taken was of negligence of the local administration and the lead and help extended by local leaders. The State of Bihar denied the allegations and maintained that prompt steps were taken by the Administration as a result of which the situation was brought under full control within a few hours.

D) Collection of facts

Applications were moved before the Commission in the Delhi inquiry by the CJC for direction for production of documents. A long list thereof was given. After the list was scanned the Commission was of the view that it would be more expedient to allow interrogatories on specific aspects than calling for the documents. The suggestion of the Commission was accepted by the CJC and two applications were filed for leave to put interrogatories to the Delhi Administration, the Union of India and certain other parties.

Agreeing with the objections of the Delhi Administration and the Union of India, the Commission found that a few of the interrogatories were on irrelevant aspects and certain information in public interest could not be required to be disclosed. On these two grounds a few of the interrogatories were not permitted to be put but the Commission accorded leave for most of them. The interrogatories were duly answered and the answers were supplied to the parties. Similar procedure was followed at Kanpur and Bokaro. Certain documents were called from non-governmental agencies and wherever available the same were also produced and made available to parties.

Before the Commission, for the inquiry at the respective places, the Commission directed some of the deponents to be cross-examined. It may be stated that most of these deponents were picked up at the instance of the

victims. Their affidavits were taken as evidence-in-chief and cross-examination was allowed to be done by the Union of India and the respective State Governments/Administration as was necessary and on behalf of victims where the stand taken in the affidavit was in support of the Administration. The persons so examined were: Delhi 128, Kanpur 97, and Bokaro 45. At the instance of some of the other parties questions were suggested to the Commission and wherever it was satisfied, the said questions were put and answers were obtained. Wherever such deponents wanted to make any further statement, the Commission made a separate record of it for its purpose. These statements usually related to problems of rehabilitation.

E) Interference with the working

Representation of victims: While deponents were being cross-examined, constant complaints used to be received of interference and harassment at all the three places. Some of the victims stated that they were threatened by the local police, rioters of the locality as also others and were told not to appear before the Commission. In view of the grievance made and the multiplying complaints, the Commission had to send its officers from the Investigating Team to different areas with a view to generating confidence in the victims and the summoned deponents in the main. On several occasions the Commission had even to direct police protection to be provided to persons who had been or were about to be examined before it.

The Commission indicated to the parties appearing before it that while it would look into all the affidavits filed before it -- whether the deponent was cross-examined or not ---- and if the deponent was cross-examined, take the evidence also into consideration, it suggested that some of the events covered by the affidavits could also be investigated by its Agency. On behalf of the victims a good number of incidents were given covering Delhi, Kanpur and Bokaro and the Investigating Agency made thorough inquiries and submitted reports, the conclusions whereof have been supplied to the parties. Reference to the reports of the Investigating Agency is made in another part of this Report.

F) Camera proceedings

The inquiry was a sensitive one. Wrong reports started featuring in the Press relating to the proceedings before the Commission. When evidence came to be taken, tainted news appeared with greater frequency. In periodicals writings appeared based upon wrong premises. Even though the CJC was appearing before the Commission through Advocates, some of the persons connected with the said Committee started giving wrong versions of events to the Press.

The Commission was, therefore obliged to direct that the inquiry would be in camera and made an order requiring the Press not to publish news and particulars about the proceedings before the Commission. The Commission places on record that the Press has mostly behaved responsibly and was co-operative after the direction was given. The Illustrated Weekly published from

Bombay, however, exhibited scanty regard to the direction and in its issue dated May 25- 31, 1986, published a write-up said to be by Harji Malik. The Commission has noticed that the write-up is contrary to facts and is a total misrepresentation of the situation.

G) Role of the Citizens Justice Committee

By March 31, 1986, substantial progress had been made in the inquiry by the Commission. So far as the inquiry at Bokaro was concerned, it was over and written submissions remained to be filed. Relating to the inquiry at Kanpur, the Commission had finished examination of witnesses and the date for oral arguments had been fixed. The last lap of oral evidence remained to be taken at Delhi and that had been scheduled to begin from April 2, 1986.

At this juncture, on March 31, 1986, a long statement was filed in the office of the Commission by the CJC notifying its withdrawal from the proceedings and in the statement the action was sought to be justified. On April 1, 1986, Mr. Phoolka, counsel for the Committee was sent for and when questioned, disclosed that the Committee was his client and as the client had asked him not to appear he had nothing more to say.

It was explained to Mr. Phoolka that the Committee had taken a special responsibility to represent the riot victims and in case the Commission had previous notice of the Committee's non-co-operation, other steps could have been taken. The inquiry was posted for the next day and there was hardly time to make any alternative arrangements. Besides, it was also pointed out that most of the facts placed in the statement were either irrelevant or were assumptions without foundation.

Mr. Phoolka wanted time saying that he would contact the senior counsel and request them to appear. They, however, did not turn up. Next day Mr. Phoolka came with a letter from Mr. Justice Sikri who happens to be the President of the Committee wherein it was stated:

"The Citizens Justice Committee (CJC) has filed on 31-3-1986 before the Honourable Commission its submissions pertaining to the matter of the continued presence and participation of CJC in the proceedings of the Commission.

In view of the discussion which took place yesterday between your Lordship and Mr. Phoolka, and out of deference to certain observations which you were pleased to make during the course of the discussions, an emergent meeting of the CJC was convened yesterday evening.

After deep and careful reconsideration of the matter, CJC regretfully finds itself unable to alter its previous decision as set out in the said submissions.

CJC would like to make it absolutely clear that its decision and the said submissions filed by it do not in any manner imply lack of personal confidence in your Lordship or any mark of disrespect for the Commission.

For reasons already stated in the said submissions CJC is of the view that the procedure adopted and followed by the Commission has rendered its continued presence and participation ineffective and pointless."

Full text of the letter is at Appendix '1' in Vol. II

It is a fact that the CJC was the premier group representing the victims at Delhi. Its sudden withdrawal from the proceedings, particularly when the inquiry had been posted on April 2, 1986 did create some amount of embarrassment in the working of the Commission. The Commission places on record its disapproval of the manner in which CJC withdrew from the proceedings.

Having persuaded the Commission to accept the position that it was a public spirited organisation consisting of socially oriented and highly placed citizens capable of effectively representing the victims and their cause the Committee had taken upon itself the onerous duty of a trustee and when it suddenly backed out it did fail to discharge the responsibility it had voluntarily undertaken. Surprisingly, Mr. Tarkunde thought it appropriate to justify the stand of the Committee by going to the Press and made a statement on the basis of which there appeared a publication in one of the fortnightly magazines soon after the withdrawal from the proceedings.

The Commission did not consider it appropriate to join issue through the Press. The Committee perhaps did not want the situation to become quiet and disclosed materials not being facts to form the basis of a write-up in yet other magazines--- this time a weekly. Having withdrawn from the proceedings, the Committee should not have helped a debate to be raised in the Press. The Press was aware of the position that the proceedings were in camera and publication was not to be made. When the matter was before the Commission and the Report was yet to be drawn up, the magazines should not have made the publication prompting to the Commission what it should do. In the opinion of the Commission, this is an irresponsible act.

The DSGMC which was already appearing before the Commission started representing the victims during the remainder of the proceedings.

H) Examination of persons other than deponents

The Commission examined some of the public officers -- civil as also defence personnel -- who held offices in the administration hierarchy during the riots. In respect of the inquiry at Delhi the following were examined:

1. Shri P.G. Gavai, former Lt. Governor (up to 3-11-84).
2. Shri M.M.K. Wali, former Lt. Governor (from 4-11-84).

3. Shri S.C. Tandon, former Commissioner of Police.
4. Shri Ved Marwah, present Commissioner of Police.
5. Shri Gautam Kaul, Addl. Commissioner of Police.
6. Shri H.C. Jatav, former Addl. Commissioner of Police.
7. Shri O.P. Yadav, former SHO, Nizamuddin Police Station.
8. Shri R.S. Sethi, former District Magistrate.
9. Gen. A.S. Vaidya, former Chief of Army Staff.
- 10 Maj. Gen. J.S. Jamwal, GOC, Delhi Area.
11. Maj. J.S. Sandhu of the Sikh Light Infantry.

Shri P.V. Narasimha Rao, then the Minister of Home Affairs of the Central Government was asked to explain certain aspects relevant to the inquiry. Director General of Doordarshan and Director-General of All India Radio also appeared before the Commission when requested and filed a written statement which has been kept on record and taken into consideration.

In regard to the inquiry at Kanpur, Brig. R.K. Kohli, the then Station Commander of Kanpur, Shri Brijendra, a member of the Indian Administrative Service and then Distt. Magistrate of Kanpur, Shri Nirmalendu Basu, Works Manager at the Small Arms Factory at Kanpur, Shri D.K. Gupta, then City Magistrate of Kanpur, and Capt. Bareth of the Maratha Light Infantry on duty at Kanpur during the riots, were examined.

The Commission was asked to permit cross-examination of these witnesses on more than one occasion but it was of the view that it would not be expedient to allow cross-examination. The request has, therefore, not been entertained.

The Commission visited certain affected areas and a Relief Camp at Delhi without any formal program. It made a visit to Panki Railway Station in Kanpur area. It also made a local inspection of an area within Dashmesh Nagar at Bokaro. A memorandum of local inspection was drawn up which is available in Vol. II at p. 2, Appendix 2.

DELHI

2. (a) General

In 1912 the province of Delhi was carved out and was placed in the administrative charge of a Chief Commissioner. In 1952 Delhi became a Part 'C' State and with effect from November 1, 1956, by the Seventh Amendment Act of the Constitution, Delhi became a Union Territory and came to be administered by the President through an Administrator appointed under sub-Article (1) of Article 239 of the Constitution --- initially designated as Chief Commissioner and later Lieutenant Governor. Under Article 239A Parliament has authority by law to create, for certain Union Territories, a body to function as its legislature but Delhi is not covered and for its administration, Parliament has enacted the Delhi Administration Act, 1966, under which detailed provisions have been made for the carrying on of the administration. Section 27(3) of the Delhi Administration Act provides:

"The functions of the Administrator with respect to law and order in Delhi, including organisation and discipline of the police force and with respect to such other matters as the President may time to time specify in this behalf, shall be exercised by him in his discretion".

Section 30 of the Act further provides:

"Notwithstanding anything in the Act, the Administrator and the Members of the Executive Council shall be under the general control of and comply with such particular direction, if any, as may from time to time be given by the President."

In consonance with the provisions of the Act, Rules of Business have been framed. Maintenance of law and order subject to the control of the Central Government is thus a matter vested in the Lt. Governor to be exercised in his discretion.

On October 31, 1984, Shri P.G. Gavai was the Lt. Governor. Delhi has a Commissioner of Police as the head of the police establishment and at the relevant time Shri S.C. Tandon, IPS, held that post. The Union Territory has a large chunk of urbanised area under municipal administration and the remaining part which is rural is divided into two tehsils --- Delhi and Mehrauli. The entire Union Territory is one revenue district in charge of a District Magistrate. By 1984, the Union Territory had been divided into five police districts, each being called a Range in charge of a Deputy Inspector General of Police (later, Addl. Commissioner of Police). For administrative convenience, an officer of the rank of Addl. District Magistrate came to be in charge of each of these five districts (now six -- with New Delhi having become a separate unit). In October/November 1984, Shri R. S. Sethi, a member of the Indian Administrative Service, was the District Magistrate.

There are several Addl. Commissioners of Police earmarked for specific purposes such as Administration, Headquarters, and Range etc. Below the Deputy Commissioner of Police in every Range there are Asstt. Commissioners of Police. The Union Territory of Delhi was then divided into 63 Police Stations. Each police station is in charge of a Station House Officer of the rank of Inspector and to every such police station is attached a number of Sub-Inspectors, Asstt. Sub-Inspectors, Head Constables and Constables.

From the census figures of 1941 it appears that the Union Territory had a population of 9,17,939 while the city of Delhi had a population of 6,95,686. There was a rapid escalation in the population following partition of India and independence. The census figures of 1951, 1961, 1971 and 1981 are given below :

YEAR	URBAN	RURAL
1951	14,47,134	3,06,938
1961	23,59,408	2,99,204
1971	16,17,023	4,18,675
1981	57,68,200	4,32,206

The Sikh population in Delhi suddenly increased following the partition of the country and as per the 1981 census, the Sikh population of Delhi was 3,93,921 which works out to 6.33% of the total population of Delhi. The urban area has in recent years greatly spread out. Many outlying villages have come into the urban belt. Though there has been a swift rise in the population as also in the territorial belt and with urbanisation, criminal activity has increased and need for police control has also become more and more pressing, commensurate expansion of the police is said to have not taken place.

There exists acute problem of residential accommodation within the urban area though with development activity to build more of accommodation the city's urban canvas has expanded and lots of new accommodation have been and are coming up. Since building activity is not commensurate, even people belonging to the middle income groups do not find residential accommodation for themselves.

Thousands of people come to Delhi in search of employment. The acute shortage of accommodation has led to the appearance of jhuggis in and around all possible places. Notwithstanding constant vigil exercised by the Delhi Development Authority as also the Municipal Corporation, unauthorised constructions come up every now and then and Jhuggies in due course get regularised as authorised colonies.

The existence of jhuggis with their poverty stricken and underfed people in close proximity of multi-storeyed modern fashionable buildings with the rich section of the society often gives rise to peculiar problems. Incompatibility in the living process between the two classes of people brings about in the poor section a sense of frustration and generates a sense of hatred as also a lust for the property of the well-to-do. In recent years respect for human life has been fast vanishing. Fear of, and regard for, law are also reduced. Moral

convictions have perished. There is, therefore, anxiety to avail every opportunity by the jhuggi dwellers to cut the rich to size.

For more than a decade there has been consistent demand for augmenting the police force of Delhi. When the Delhi Police Act, 1978 was enacted to build up a vitalised police force the demand was examined in departmental records and a good number of conferences and debated as a basic issue. There was, however, no positive outcome of these exercises.

In recent years, in and around Delhi, there has been sizeable growth of industrial activity. Industrialisation has brought about increase of industrial labour and with it has come more of criminal activity. The criminal population within Delhi has also been on the increase day by day. Hardly a day passes free from criminal incidents. Broad daylight looting of Banks, killing of men, stabbing of persons, burning of brides, commission of suicides and a wide range of other criminal activities appear to have become a part of the daily normal routine of life in this region. There used to be regular police beats which on account of pressure of work have been abandoned for some time.

2. (b) Incidents

31 - 10 - 1984

Around 9.20 a.m., two Sikh security guards fired upon Prime Minister Smt. Indira Gandhi at 1, Safdarjung Road, her official residence. She was hurriedly removed to the All India Institute of Medical Sciences for medical attention. This information spread like wild fire. Thousands of residents of Delhi started gathering at the AIIMS. By the time the Commissioner of Police reached the AIIMS at 10.05 a.m., the crowd was swelling up on the Aurobindo Marg outside AIIMS and the South District Police under the Deputy Commissioner of Police had become busy making arrangements to keep the AIIMS Complex clear and free. By 1 p.m. the crowd at the AIIMS had swelled up to well above 30,000. The exact condition of Smt. Gandhi was not being disclosed to the mob which was gradually becoming impatient. By the afternoon the newspapers, however, started publicising that Smt. Gandhi had succumbed to her injuries and doctors had failed to resuscitate her to life. CJC asked for production of certain newspapers which the Commission directed to be called for. References to some of them are made here. The Indian Express Editor has informed the Commission in answer to an interrogatory suggested by CJC :

"The second Special Supplement was issued around 1 or 1.15 p.m. under the banner heading : Mrs. Gandhi assassinated."

The Hindustan Times brought about a Special Supplement with the headline "Indira Gandhi is dead. "

The Statesman in answer to the interrogatory has replied :

"Second edition at about 1.45 p.m. --- Mrs. Gandhi was no more. It is feared....."

A Special edition was brought out at about 3.15 p.m. announcing of Smt. Gandhi's assassination.

Between 2 and 3 in the afternoon sporadic incidents started taking place. Initially these were confined to shouting of slogans against the Sikhs calling them as traitors, pulling out Sikh passengers from buses and manhandling them. Additional Commissioner of Police Jatav says, by 2.30 p.m. he received information of trouble in South Delhi of pelting of stones and assault on Sikhs.

Police Commissioner Tandon has stated that around 12.30 p.m. he had been called to the Prime Minister's residence by M/s Fotedar and V.S. Tripathi. There the Lt. Governor was also present. He was advised to look after the security and to keep the roads around the Prime Minister's residence clear. At that point of time it was felt that the body of the Prime Minister would be brought from the AIIMS to her residence.

Around 4 p.m. Police Commissioner Tandon was told that there would be delay in release of the body. Shri Rajiv Gandhi was then away in West Bengal and appears to have returned to Delhi in the latter half of the afternoon.

By about 5.30 p.m. the President who was away from India returned and straight drove to the AIIMS from Palam. The Presidential cavalcade appears to have been attacked by some persons out of the angry mob still waiting at the AIIMS and some of the vehicles were damaged by throw of stones.

Around that time trouble started in Jorbagh and INA Market areas. Vehicles of Sikhs started being stopped and their turbans were removed and set on fire. By the evening time mobs collected at several places had started stopping transport vehicles as also scooters, motor-cycles and cars either driven by Sikhs or in which Sikhs were found travelling. The initial shout of condemnation of Sikhs began to take a serious turn. Some of the mobs were only of hoodlums, others were groups of people of different ages.

By the evening from different areas several reports of taxis and transport vehicles of Sikhs being set on fire started pouring in.

It is a fact that the Press Trust of India had sent the following message at 10.54 hours on that day :

"Among the assailants were two Sikhs and one clean shaven Sikh, unofficial reports said."

When in the evening news of her death was published, the fact that assailants were Sikh guards was stated. During the night the crowds increased and started moving from place to place. The houses owned/occupied by Sikhs were identified. Free and open threats were administered to members of that

community wherever they were found. Several incidents of brutal physical assault took place.

Soon after the occurrence in the morning the Home Secretary had issued wireless messages to all the States, including the Delhi Administration, alerting them against apprehended trouble. On the basis of such alert, Additional Commissioner of Police, Shri R.K. Ohri ,had sent out wireless messages to all Distt.Deputy Commissioners of Police to the following effect :

"You are advised to intensify patrolling and strengthen police presence in communally sensitive areas, especially near Gurdwaras, Temples, Mosques, etc. and keep a sharp look out for mischief mongers. Special attention may also be paid to the safety of vital installations. Necessary steps may be taken to curb any rumour -mongering and effective action taken against those spreading rumours. Similarly, watch may be kept on known bad characters and goondas. All Distt. DCPs may also maintain in reserve for meeting any unforeseen situation."

The then Home Secretary, Shri M.M.K. Wali has told the Commission that between 11 and 11.30 a.m. of that day he had talked to the Lt. Governor as also the Commissioner of Police to ensure that the situation should be watched with great care and caution. It appears from his evidence that the Home Minister, the Cabinet Secretary and the Principal Secretary to the Prime Minister were away from Delhi at that time. These people returned to the capital between 3 and 3.30 p.m. This statement of the then Home Secretary has been supported by Lt. Governor Gavai.

Police Commissioner Tandon has stated that in his opinion prohibitory orders under section 144, Cr. P.C. were adequate to meet the situation as it prevailed on October 31, 1984, and he, therefore, did not take any other action accepting promulgation of prohibitory orders and asking for deployment of the police force to enforce it.

There were as many as 119 incidents on October 31, 1984, to which reference has been made before the Commission. These happened in different parts of Delhi and were of the nature and pattern already indicated. Several affidavits filed before the Commission refer to these incidents.

For instance, a reference to the affidavits of Smt. Ravinder Kaur (no. 2778) goes to show that her husband who was driving truck No. 755 was killed in Shahdara area during the night of October 31, 1984. The death certificate appended to the affidavit shows that the killing took place near a petrol pump in Bhajanpura area in the early morning hours of November 1, 1984. This clearly indicates that killing of people had started during the night of October 31, 1984, as found by the Commission.

From the evidence produced it appears that 13 Gurdwaras were attacked on 31st October, being Shri Guru Singh Sabha Gurdwara at Naraina, the Gurdwara at Sagarpur, Shri Guru Singh Sabha Gurdwara at Lajpat Nagar, the Gurdwara at Sheikh Sarai, the Gurdwara at Defence Colony, the Gurdwara at

Gandhi Nagar, Kalgidhar Singh Sabha Gurdwara at R.K.Puram, Shri Guru Singh Sabha Gurdwara at R.K.Puram, Shri Guru Singh Sabha Gurdwara at Sarojini Nagar, Shri Guru Singh Sabha Gurdwara at Lodhi Colony, Baba Budha Singh Gurdwara at Prem Nagar and Gurdwara Sikh Sangat at Green Park Extension, South Delhi. The material on record shows that attack on these Gurdwaras started by sunset time and continued till about 11 p.m.

These incidents of October 31, 1984 appear to have been taken by way of involuntary reaction of a deep sense of grief, anguish and hatred for the assassins. There can be no scope to contend, and much less to accept, that at the initial stage on October 31, 1984, the violence that took place was organised. October 31, 1984, began with a usual autumn morning and no one had any reason to apprehend that such an ugly and unfortunate incident would take place.

The killing came as a bolt from the blue and took everyone unawares. Smt. Gandhi's body had been received at the AIIMS and the fact that she was dead had not been disclosed. Though some people knew that she was dead, most of the population living in different areas has not come to know of the fact of death till evening. It is in such a background that the initial incidents started taking place.

These, therefore, appear to the Commission to be spontaneous reaction of the people to the then prevailing situation at the commencement but as the police did not attend to the situation and failed to make a proper assessment of what was brewing, what began as an innocent reaction to Smt. Gandhi's assassination developed into one of the darkest tragedies in independent India's history.

In the Evening News of the Hindustan Times of the 31st, the situation of that morning was thus described :

DELHI PEOPLE DAZED

People in the capital heard in shocked disbelief news of the attempt on Prime Minister Indira Gandhi's life here this morning.

People from all walks of life were dazed on hearing that Mrs. Gandhi had been shot at and rushed to AIIMS for surgery."

In the November 1, 1984, issue of the Indian Express the situation on 31st October was reported thus

GLOOM DESCENDS ON CAPITAL

A pall of gloom descended on the capital as news about the shots fired at Indira Gandhi spread throughout the city.....,

At the offices of the Delhi Pradesh Congress (I) Committee on Kali Bari Marg and the Delhi Pradesh Youth Congress (I) office on the Talkatora Road

downcast workers sat on the lawns. The All India Congress (I) Committee office on Akbar Road was placed under close guard and all visitors were being screened closely.

On Bahadur Shah Zafar Marg, where most newspaper offices are located, one could see people wiping tears on reading this. Simultaneously the capital was overtaken with grief.

Many, however, still could not believe this. 'How is it possible ?'asked an elderly lady, 'only yesterday Indira Gandhi was in Orissa, I saw her on the television addressing the jawans.'

But as the sun set and darkness descended on the city, a pall of gloom covered the city and perhaps the country completely. People now began to believe that Indira Gandhi was dead."

The same newspaper carried the following news dated 31-10-1984 :

"The Government late on Wednesday night alerted the Army and called out the Border Security Force and the Central Reserve Police Force as the local police failed to control the widespread rioting and arson in different parts of the capital following the assassination of Indira Gandhi.

The main targets of the rioting mobs were Sikhs, their property, vehicles and places of worship. Curfew was imposed in Agartala, Jammu and Jabalpur while the Army was called out in Agartala and Calcutta as angry crowds went on the rampage in several parts of the country protesting against Indira Gandhi's assassination. Incidents of violence were reported from parts of Tripura, Bihar, Orissa, West Bengal, Uttar Pradesh, Jammu and Kashmir and Madhya Pradesh, reports P.T.I.

At least 30 Sikhs were admitted to various hospitals in the city (Delhi). Quite a few have been admitted to the All India Institute of Medical Sciences alone till 10 p.m. on Wednesday (31st October).

Angry mobs went about setting fire to property belonging to Sikhs, without any let or hindrance from the police. They set alight two Gurdwaras in South Delhi, the premises of four transport companies and two timber stores in the walled city.

At least 50 vehicles including trucks, cars, buses, scooters, rickshaws-scooters and motor-cycles were set on fire in different parts of the city. The maximum damage to vehicles was done in Safdarjung airport area, Laxmibai Nagar and Vinay Nagar area.

Between 6 and 10 p.m. between the Prime Minister's house on Safdarjung Road and AIIMS, a vehicle was seen burning every 50 yards. The police had to delay taking the body from the hospital because of the burnt out vehicles enroute 1, Safdarjung Road. Around 10.30 p.m. two trucks were ablaze at the Ring Road Crossing near Kamal Cinema. 'We cannot deal with the situation

of this nature' said Mr. Gautam Kaul, Addl. Commissioner of Police, New Delhi outside the AIIMS..... A mail van driven by a Sikh was also burnt near Jorbagh. Safdarjung Airport crossing sometime around 5 p.m. Its burnt out shell was hurriedly removed to enable the passage of the gun carriage carrying Indira Gandhi's body.

The Delhi fire department was hard put to combat the spurt of fires in the city. A fire spokesman late in the evening (of the 31st) said that they were incapable of handling the situation in the city and perforce had to let fire rage in the capital.

Mobs of young men armed with steel rods and lathis stopped vehicles all over the city bragging that they had set many vehicles and places of worships on fire.

Impotent policemen stood at odd corners looking on helplessly as mobs went amuck in the walled city setting timber markets and trucks on fire. Shops belonging to Sikhs were indiscriminately looted....."

This is a long extract of the news item from the Indian Express dated November 1, 1984. Indisputably the contents were printed in course of the night of the 1st October and this newspaper was available for sale/distribution by early morning of November 1, 1984. CJC called for copies of this newspaper from 1-11-8 to 7-11-84 and upon orders by the Commission, the management produced them along with their letter dated 18-11-1985.

The news item was a contemporaneous publication and chances of motivated reporting would not be there. CJC with the obvious intention of relying on the news coverage called for these issues of the paper. The news shows in clearest terms that rioting in the proper sense have started in a very big way in several parts of the city on the 31st evening and except for killing which came into the process from 1-11-1984, every other form of attack on Sikhs had begun.

The massive scale on which the operation had started so soon after the fact of death was circulated is clearly indicative of the fact that it was the spontaneous reaction of the people at large. The short span of time that intervened would not have permitted scope for any organising to be done.

The gloom that had spread and affected the Congress-men in particular would not have permitted any such organisation to be handled. The reaction appears to have come as a flutter and sparked everywhere in a similar pattern. It was not confined to States where Congress (I) was in power. West Bengal and Tripura where C.P. (M) led governments were in office got affected too.

The police was impotent from the very beginning has been clearly indicated. Their leadership was full of doubts about their capacity is also apparent. These facts have to be kept in view for drawing of appropriate conclusions at relevant places.

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On the previous day, apart from proclaiming prohibitory order under S.144, Cr. P. C. and directing the police to be on the alert and take such steps to meet the situation as may be necessary, no effective steps had been taken in the various localities where trouble had either started or was brewing or was likely to happen.

The inaction of the police at the early stage gave a general impression that it was not going to interfere with the mob activities. In the early morning of November 1, 1984, mobs were found on the streets prepared to undertake looting, arson, assault and even kill. The Commission has already indicated that on October 31, 1984, itself operation had been undertaken to identify houses owned or occupied by Sikhs.

The mobs that operated on November 1, 1984, were mostly from the lower strata of society coming from the jhuggis and the outlying villages. There were, however, several instances where people of the middle class as also some belonging to the richer section of the society did participate and even led the mobs.

In many of the affidavits of the victims where the method and modality adopted by the mobs have been described, it has been clearly stated that there was a difference in the pattern of the operations carried in the morning and later in the day.

In the morning hours crowds moved out and ordinarily threatened or terrorised the Sikh population in different areas, did small scale looting and even caused assaults. When these illegal activities were carried on by the mobs in certain areas there was resistance from the side of the Sikhs, particularly were they were of a sizeable number.

The situation in many areas, therefore, became tense and provocative. In some areas while confrontation of this type proceeded and members of the Sikh community were beaten up, there had been casual retaliation. Assault on non-Sikh rioters inflicted by way of exercise of the right of self-defence was made an issue and was utilised to provoke the mobs against the Sikhs.

From early morning a rumour was spread throughout Delhi to the effect that the Sikhs had poisoned the drinking water of Delhi. Obviously this had been done by the miscreants to create further bias and prejudice against the Sikhs and create apathy in the minds of the people against Sikhs.

From that morning the miscreants also started spreading another rumour that every train which came from Punjab side carried dozens of dead bodies of non-Sikhs. This was an out and out lie but was intended to create the necessary panic and bring about the proper mood in the people constituting the mobs to react against the Sikhs.

Rumour is one of the cheapest tools in the hands of the trouble makers either to boost or demoralise and the gangsters had resorted to such methods.

Later in the day on November 1, 1984, the riotous mobs followed almost a uniform pattern everywhere. They came well-armed with iron rods, crow-bars, kerosene in containers, inflammable powder, firearms, apart from lathis and other dangerous weapons. In some areas the kerosene stockists were made to supply kerosene.

The afternoon operations became dreadful; the houses occupied by Sikhs were initially looted, the left over material which was either not considered useful for looting or was difficult to be removed was set on fire. Ordinarily, every male Sikh found in the house or in the locality was beaten to death.

Wherever the gates of the compounds were closed or the doors were locked from within, with iron rods and crow-bars as also by use of force these were broken open.

The riotous crowd followed the pattern of burning all the Sikhs who were either killed or were in the process of dying as a result of fatal assault and injuries. This obviously was so done to leave no trace and to make sure that no one that had been injured survived.

The Commission has come across instances where ladies who ran to the rescue of their husbands or their close male relations were also brutally assaulted and in some cases were even thrown into the fire in which the men-folk were already being burnt.

November 1, 1984, appears to have been the worst day during the riots.

When the incidents happened in the early part of the day within a few kilometres from the Police Headquarters and in areas close to the administrative establishments, these incidents had not impressed the machinery that the situation had gone out of control.

The Lt. Governor came to Teenmurti Bhavan around 6.35 a.m. where the dead body of the late prime Minister was lying in state. After making floral offering he looked for the Police Commissioner and when they met, he advised that the Police Commissioner instead of hanging around Teenmurti Bhavan should move out as there was apprehension of trouble. When the Lt. Governor suggested that the Army could be called immediately, the Commissioner of Police was of the view that he should first take a round, form his own opinion and then only on the basis of his assessment the decision for calling in the Army should be taken.

Around 10 a.m. the Police Commissioner informed the Lt. Governor on telephone that the situation was going from bad to worst and that Army help should be asked for. When the Lt. Governor contacted the GOC, Delhi Area, according to the Lt. Governor the GOC replied that he had already been

alerted but before the Army could move in he wanted a meeting with the Lt. Governor.

The meeting took place around 1 p.m. The GOC was of the view that the number of troops available with him could operate only in two contiguous areas.

The Army was ultimately asked to move into South and Central Delhi and it appears that it had become operational by the evening. Police Commissioner Tandon in his statement has also accepted the position that around 10 am after returning to the Police Headquarters he was of the view that the situation had become worse in several parts of the city.

Addl. Commissioner Jatav has stated that until the evening of November 1 he had no occasion to feel that the situation was going out of control.

There was no proper assessment by the police of the grave situation in the city. The Commission is satisfied from the material placed on record that on November 1, the law and order situation in Delhi had been left in the hands of the riotous mobs and the police, as will be presently discussed, failed to discharge its duty of maintaining law and order.

It is during that night that one of the greatest tragedies of the riot period took place in the Trilokpuri area. Trilokpuri is part of Kalyanpuri Police Station. Block 32 of Trilokpuri was being inhabited by Labana Sikhs mostly belonging to the poorer section of society.

In the earlier part of the day on November 1, an attempt was made to set the Gurdwara in Block 32 on fire but this attempt had been repelled by the local Sikh population. In the stone throwing that followed, a local mosque was somewhat damaged.

In the afternoon the Station House Officer along with a police party had visited the area but made no proper appraisement of the situation nor did he attempt to normalise the situation by easing the tension.

One Head Constable with two other police constables had been given duty from 8 a.m. till 8 p.m. that day but they withdrew from the area by 3 p.m. Trilokpuri had no light that night.

Under the cover of darkness the riotous mob fell upon the Sikh community and almost wiped out everyone. 95 dead bodies were recovered from the locality.

The few that survived were those who had run away under the cover of darkness and had taken shelter in huts of farm labourers from Bihar after shaving off their hair and beards.

On November 1, 1984, in several other areas of the city hundreds of crimes were perpetrated by riotous mobs. Reference to 399 incidents of various

categories has been made in the affidavits and evidence placed before the Commission.

As already pointed out, this was the worst day during the period of rioting. Three fourths of the persons killed seem to have perished on this day alone in the hands of the rioters.

There is clear evidence that a common pattern had been followed by big crowds. Curfew had been clamped in the afternoon. This power was available to be exercised by the Commissioner of Police. He stated that initially he did not think curfew to be necessary but later he instructed the Deputy Commissioners of Police to impose curfew when on their own assessment they were satisfied that the situation warranted it.

There is clear material on record by way of admission of senior police officers in their evidence that curfew was not effective in as much as it could not be strictly enforced. Notwithstanding imposition of curfew, in the absence of any strict enforcement the crowds moved and operated as freely as before when there was no curfew.

Throughout the night of November 1, 1984 the riotous mobs carried on their operations. The Army had not become very effective at the initial stages as it required magisterial orders for resorting to firing; in the absence of proper guidance by officers used to the localities it had operational inconvenience; the mob taking advantage of the night and darkness in several areas used to keep away from the main roads and wider lanes as and when Army vehicles approached and once the vehicles moved away they collected to carry on their operations again.

In the evening the Prime Minister and a number of opposition leaders made a joint appeal to the people for restoration of sanity and their appeal, inter alia stated :

"Nation's unity and integrity must be safeguarded at all costs and this is the foremost responsibility of every citizen..... To subject Sikhs as a whole to violence and indignity for what a few misguided persons have done, however heinous their crime, is most irrational and unbecoming of our heritage of tolerance, This madness must stop.....From the very beginning Sikhs have been an inseparable part of India and the Sikh community has played a glorious role in the freedom struggle and in the building up of independent India...."

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As already noticed, towards the evening of November 1 the Army had moved into two Districts, namely, Central and South. One full Brigade reached Delhi at 6 a.m. on November 2, 1984, another at 8 a.m. and third one at 9 a.m., the fourth Brigade came at 1.15 p.m. and the fifth around 2.30 p.m. These five Brigades had come from Meerut, Roorkee, Shahjahanpur, Alwar and Punjab respectively, and each Brigade had at least 3,000 soldiers.

By evening of November 2, 1984, the Army had moved into almost every area of Delhi. The presence of Army and regular patrolling made it difficult for the riotous mobs to freely operate but until evening there had been a lot of criminal activity carried on in almost every part of Delhi.

The initial difficulty of lack of Magistrates was removed by providing more Magistrates. Instructions were issued to the Army to fire in self-defence or when mob committing arson, looting or resorting to killing was noticed. With the arrival of adequate force and the army moving about in almost every area, the situation showed signs of improvement.

In the later part of the day on November 2, 1984, a group of Members of Parliament had met the Prime Minister at his residence. Lt. Governor Gavai also participated in the meeting. Notwithstanding the availability of the Army and round the clock movement of columns of it in affected areas, many incidents occurred during the day.

The Prime Minister described the communal frenzy sweeping the country following the assassination as disgraceful. In an unscheduled brief broadcast to the nation he said :

"While hundreds of millions of Indians are mourning the tragic loss of their beloved leader, some people are casting a slur on her memory by indulging in acts of hatred and violence. Disgraceful incidents of arson, loot and murder have taken place. This must stop forthwith. The Government will ensure the safety of life and property of every citizen irrespective of his caste, creed or religion.

India Gandhi gave her life so that a united India should live and prosper. Anything that creates a division between brother and brother comes in the way of national unity. This violence is only helping the subversive forces to achieve their ends. Communal madness will destroy us.

It will destroy everything that India stands for. As Prime Minister of India, I cannot and will not allow this. Tomorrow the mortal remains of Indira Gandhi will be consigned to sacred flames. She had said, 'Do not shed blood. Shed hatred, Let this guide us."

The Prime Minister toured some of the affected areas between 1 a.m. and 4.30 a.m. to get a first-hand account of the situation in the capital.

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From the evening of November 1, shifting of riot victims to Relief Camps had started in a small scale. On the November 2 that operation had been continued. By November 3, several Relief Camps had been set up and with the assistance of the Army, Police and the voluntary organisations as also the civil population the rescuing of riot victims continued and thousands of people from different areas came to life in different Relief Camps.

With the Army units moving about, the morale of the victims started showing signs of improvement and some of the Sikhs who had run away from their houses for life started coming back to their own houses where they found all the property had been looted or removed and the houses had been set on fire.

Most of the people lived in Camps for another 5-6 days and then started returning. From certain areas like Trilokpuri where mass killings had taken place the widows were not prepared to return to those areas and preferred to live in Relief Camps. Their habitation and living became a problem. By the evening of November 3, 1984 there was further improvement in the situation.

2. (c) Consideration of affidavits

Brief reference may be made to some of the affidavits relating to incidents of damage to Gurdwaras, killing, arson, looting and assault, and allegations of miscellaneous nature.

The Commission had indicated on more than one occasion during the proceedings to counsel and parties that the manner of appreciating evidence collected by it would not be as done in a criminal trial and every detail in every affidavit was not to be taken into account to find out whether there was any contradiction and on that account to discard affidavits.

The Commission was interested in collecting evidence to ascertain the pattern of the occurrences and for that purpose to have a general view of acceptable material on record. It is proposed to refer to some of the affidavits relating to the incidents for the aforesaid purpose.

S. Amrik Singh (no. 2301) was living in West Patel Nagar (Central Distt.). In his affidavit he indicated :

"After that the mob proceeded to Gurdwara and they threw the holy book outside, kicked and urinated upon these books. The uprooted Nishan Sahib (religious flag of Sikhs) and looted the money-chest."

It was an incident of November 1, 1984. S. Angad Singh (no. 2675) of Rohtak Road (North Delhi) had also referred to an incident of November 1, 1984, with reference to the Gurdwara of his locality. He has stated :

"We saw that some persons were ransacking the Gurdwara and some were setting it on fire. About 8-9 individuals went to save the Gurdwara. When we reached there we saw that the crowd numbered about 700/800 and before we reached the Gurdwara, they had already set the Guru Granth Sahib and the "Palki Sahib" on fire. And they had ransacked the Gurdwara also."

S. Ajit Singh (no. 2599) residing at Geeta Colony of Krishna Nagar Police Station (East Distt.) has referred to the Derababa Jai Singh Gurdwara. According to him the mob burnt the Gurdwara as a result of which the entire

place was damaged. S. Charanjit Singh (no.2282) was residing in Lajpat Nagar (South Distt.).

On November 1, 1984, according to him, "at about 10 a.m. a violent mob came to the Gurdwara from the Ring Road side. I was at home and was told all about it by Sewadar Mehel Singh who along with his family and the Granthi S. Tarsem Singh was residing in the rooms of the Gurdwara. There was noise outside the Gurdwara. Hearing this noise the Sewadar and the Granthi came out but they were requested by the police to go inside and were told that the police would protect the Gurdwara as also them. When they went inside their rooms the mob comprising of 1200 to 1500 came near and started throwing stones. The mob was armed with petrol cans, sariyas, lathis etc. They collected the durries and the mob put them on fire. They went upstairs in the main hall and broke the glass door. They also burnt the holy books, Guru Granth Sahib and threw some of them. They closed the door of the room of the Sewadar and put it on fire. He was saved by the Hindu neighbours and shopkeepers."

He has further stated :

"They mob went towards the Gurdwara II which is also managed by the same Committee. The mob also tried to burn it but it was saved by the Hindu neighbours who have a common wall with the Gurdwara."

In the affidavit of S. Gurcharan Singh (no. 2274), living in Punjabi Bagh area (West Distt.) it has been stated :

"After sometime, two buses, 2 trucks and one matador stopped in front of the Gurdwara. Matador came inside and sacks of sugar, wheat and the tins of ghee etc. were loaded in it. In one truck 400-500 beddings and in the other cots, one locker containing cash (which could not be broken), utensils, four golden chanwars, five silver chanwars and other articles were loaded. All these people had come by the aforesaid vehicles. Then they started setting the Gurdwara on fire. "To save our lives, we jumped from the back side over a dispensary and ran for our lives..."

These representative affidavits indicate the manner in which the Gurdwaras were attacked. The fact that local Hindus protected the Sikh residents as also their Gurdwaras from the onslaught of the riotous mobs in some areas is indicative of the fact that the Hindus as such were not out to damage properties or make an attack on the lives of the Sikhs.

It would, therefore, not be correct to say that Hindus as a community carried the attack against the Sikhs, their properties and their places of worship. Many Hindus, as found by the Commission elsewhere, extended every possible help, even at considerable risk to themselves, to protect the Sikh interest. It is, however, a fact that people who constitute the anti-social element among the Hindus as also some other communities other than Sikhs had participated in the riots. From the manner of operations carried in the Gurdwaras it is patent that the real eye was on the property available to be

taken away from the Gurdwaras and simultaneously an attempt was made to damage the Gurdwaras after defiling the sacred books within them.

Coming to incidents of killing, reference may be made to a few of the sample affidavits placed before the Commission. In the affidavit of Balwinder Singh (no. 2331), resident of Basti Sarai Rohilla within North Delhi, he has said :

"Almost all the Sikhs abandoned the Gurdwara but my aforesaid son was on the roof of the Gurdwara. Then I saw two Hindus who went to my son and one of them was Sahab Singh, resident of House no. C/3, Moti Bagh, Sarai Rohilla, Delhi. They told my son within my hearing that they were police officials and they caught hold my son from his hair and then threw him down from the roof. Then both of them came down and Sahab Singh struck iron rod twice in the head of my son. Many Hindus were present there. My son fell down. Then they sprinkled kerosene oil on my son and set him on fire. Sahab Singh was the person who did all this in my presence...."

The young man threw away his burning clothes and started running. He was hospitalised where he succumbed to the burns on November 2, 1984. It may be pointed out that in this affidavit reference to firing by the jawans of the RPF has been made. According to the deponent, in an unprovoked way the firing started and continued until the rioters had entered into the Gurdwara. The deponent appeared before the Commission as a witness and has supported the same story.

Affidavit of Smt. Prakash Kaur, residing in the Slum Tenement of Garhi (no. 2340) narrates the killing operations thus :

"On 2-11-1984 at about 4 p.m. about 200 to 300 non-Sikh mob came to kill me and my family members and attacked us. Door of my house was broken. At that time my sons Bakshish Singh (28) and Arjan Singh (18) and one Rajinder Singh alias Gudu (28) were taken out from our house no. 192 Block 3, Trilokpuri. My husband was also taken out by the mob from the said quarter no. 192 where they were hiding for safety, by breaking open the door of the quarter. They started beating my sons and husband mercilessly with iron rods and lathis. My son Arjan Singh and Rajinder Singh alias Gudu were killed on the spot by one Rama, driver, living in second street from my house in block no. 30,... Bakshish Singh tried of save himself and thus run away. He was injured by stones. He fell down, but he again got up and started running; then he entered into one house in the area.. He went up the roof of that house. The above mentioned assailants followed him and then threw him down from the roof and then they put kerosene on him while he was alive and burnt him alive. My husband Gurbachan Singh was severely beaten and he was thrown in the fire, but some persons save his (sic) life."

Yet another incident of killing is available from the affidavit of Smt. Manmohini Kaur of Mahavir Enclave, Palam Road (no. 2378). It says :

"....Hardly had we come out of our house that the mob attacked our house. They surrounded my husband and his two younger brothers and dragged

them away. When my father-in-law tried to bolt the door from inside, then I was inside along with my younger son. They forcibly opened the door and the man who came first near my father-in-law gave a blow with his sword on my father-in-law's head. My father-in-law asked me to go away with my younger son. I pleaded with that assailant to kill me also. That assailant and some other persons took my father-in-law on the back lane where my husband and his two younger brothers had been dragged away. I do not know anybody from the mob because all of them were outsiders... The assailants remained standing there until the victims fell after getting grievously injured. I went to the place where they were beaten. They were asking for water. I ran to my house to fetch water but these persons had taken away the lever of our hand pump. I begged my neighbours for water. My husband, one of his brothers and my father-in-law died then and there..."

One more instance of killing is very pathetically described in the affidavit of Smt. Padmi Kaur (no. 2497), living in Sultan Puri area. The incident also took place on November 1, 1984, and she narrates :

"After some time the mob arrived, broke open our door and came inside. They caught hold of my daughter Maina Kaur forcibly and started tearing her clothes. In her self-defence my daughter also tore their clothes and also hit them. They tried to criminally assault my daughter. My husband begged them to let her go. The mob said that they would kill him "Koyi bhi Sikh ka bacha nahin bacheega"(No Sikh son would be spared). They broke the hands and feet of my daughter and kidnapped here. They confined her in their home for three days. I know some of the persons in the mob. Their names are as under :

Ganpat, Hari Om (brother of Gupta), Brahamanand Gupta and Jai Bhagwan both reside in A-4. Gupta has a kerosene oil depot, Romesh of B-2 and Udal resides in A-4 whose house is near the hotel, Ramu known as Bakri Wala, Mohan who has a cow. Now my daughter Maina Kaur has fallen ill and has become like a mad girl.

After this the mob attacked my husband Charan Singh, son Ashok Singh, neighbour Balwinder Singh, brothers Inder Singh and Dalip Singh, nephew Bhajan Singh, brothers-in-law Prem Singh and Dharam Singh and Dharam Singh's son Anil Singh. The mob used to hit them on heads with lathis and set them on fire after pouring kerosene oil over them. They had some kind of powder with them which caught fire when thrown on an object. All of them died there."

Another description of killing is available in the affidavit of Amrit Kaur (no. 2630), resident of Mangolpuri area where the incident took place on November 3, 1984. She states :

"On 3rd November, at 4 O'clock in the morning my husband was killed before my eyes. Firstly, Ram Niwas of Plot No. Y-432 and 431, Mangolpuri collected Jai Pal, his brother Ram Narain, Puran Dhobi, his brother Kalwa, Nanu, Satvir

Bhangi and Kale Bhangi who stays with him and Mouji Ram Bhangi, a Bhangi lady who is known by that name.

First of all, Ram Niwas having 2 big iron rods, hit my husband on the head saying that "Yai sala Wadhawa Singh Hai". The incidents of 1st and 2nd have been explained by my brother Thakur Singh. This incident pertains to the morning of 3rd at about 4 O'clock which I witnessed myself. After this, Satvir Bhangi, Mouji Ram, Kala Bhangi, who is my neighbour, pointed out that he is the bloody Wadhawa and then Puran Dhobi hit my husband with a sword and his brother Kalwa alias Lala and Jai Pal 'Brickwala' who lives in Y Block, all these reside in Y Block, killed my husband before my eyes. After that his body was thrown on a handcart and my brother Bhajan Singh was ordered to push that. My brother was also beaten by sticks and later when he could not push the hand cart, he was also killed and put on the same hand cart and was burnt together with my husband. Three relative had come to my house, one of them was killed on 2nd, and the other two which included my uncle Ladha Singh and the other one was my father-in-law Jassa Singh, were forcibly taken away by Ram Niwas Khatti, milk vendor of Plot No. Y 431-432 and had burnt them alive. Afterwards Ram Niwas and his companions tried to rape me."

The last of these representative affidavits relating to killing is of Jogi Singh (no. 2367) from Kalyan puri area where the incident is said to have taken place on November 1, 1984. He narrates:

"I went to inform the parents of my Banja Jorawar Singh that he had been killed in Block No. 11, Kalyanpuri. When I was coming after informing his parents I saw that non-Sikh mob has set on fire our Gurdwara near my house. It was about 7.30 a.m. I ran to my house and my neighbour Ch. Jagbir Singh asked me to hide myself in his house and I did so. When the mob had gone away I came out from his house. Similarly other Sikhs who were hiding in the houses of Hindus nearby also came out.

At about 4.30 p.m. on 1-11-84, non-Sikh mob of about 2000 to 3000 instigated, motivated and led by Dr. Ashok, Congress (I) Councillor of the area came there and started attacking the houses of Sikhs. A bus of my relatives namely, Wazir Singh, Bachan Singh and Mohabat Singh which was parked near my house was set on fire by them. At that time, I was hiding in the house of Dal Chand Ration Shop Owner in the area and from there from the holes I was seeing everything.

Then the mob set on fire the house of Swaroop Singh who was living in my street and Swaroop Singh was brought by Dharam Deo Maji living near my house and Jai Narain who was earlier living near my house, but had shifted to Block B at that time, along with four five others who can be identified by me, and he was killed by daggers and then set on fire by them i.e. Dharam Deo Maji, Jai Narain and others. I saw this incident myself.

That Wazir Singh was also killed by them in a similar manner by dragging him from his house. He was killed and burnt by Dharam Deo Maji, Jai Narain and their 2/3 more companions in the presence of that big mob, where Dr. Ashok,

Congress (I) Councillor was also present and he was instigating them to kill the Sikhs mercilessly."

Shri Gurcharan Singh (no. 2706) resident of Lajpat Nagar area, presented a case of arson and looting. He stated :

"At 10.30 a.m. on 1-11-84 a mob led by Shri Himmat Rai (Congress worker) and brother of Shri T.R. Malhotra Member, MCD and Shri Sain Ditta Mal of B-1/164 Lajpat Nagar came from Post Office side. The mob was comprising of 150/200 persons mostly of jhuggi jhourpis and few miscreants from Lajpat Nagar, New Delhi.... The mob was armed with iron rods, petrol cans, kerosene oil, lathis and some powder, stones etc. and most of the persons were armed with same type of lathis, iron rods etc. and came from Post Office side. These rioters were brought in buses which were parked near S. Avtar Singh's house in E-1st Block. Lajpat Nagar and these buses were seen by S. Avtar Singh and others and the rioters were taken by local leaders to Gurdwara... My own shop, office, Gurdwara records, cash amount of Rs. 4400/- of Gurdwara, Rs. 3500/- of Singh Sabha School, records of school, my professional and business papers, account books were all burnt down. My four Ambassador cars bearing registration Nos. DLY 473, 474, 475 and DLY 807 were set on fire by the mob and damaged them. The police party during that time were heard saying 'Jo kuch ho sakta hai karo' and this police party went away thereafter."

This deponent was cross-examined by the Delhi Administration at length and nothing substantial has come out in cross-examination to take away the effect of his affidavit.

Some allegation of molestation of young ladies has been made in a few affidavits. None of the deponents who were cross examined adverted to this aspect. The Investigating Agency did pursue this matter but no evidence of dependable nature could be obtained. The Commission, keeping in view the quality of the people involved in the operations, would not have been surprised to come across a few incidents of this type.

An analytical break-up of the affidavits filed by the victims with reference to various types of incidents police-station wise has been prepared by the Commission. Similarly, the affidavits have been classified on the basis of date-wise incidents referred to therein. These are available in Volume II at pp. 4 -11, Appendix 3 of the Report.

Grievance has been made that even when the injured were taken to hospitals, at certain places doctors were not available; at others proper treatment was not provided and at yet others indifference was shown. Doctors belong to one of the noblest professions in the community and their professional discipline requires them to save every human life and make all possible attempts to relieve the suffering without bothering about caste or community, status or situation of the patient. Indian doctors with their high spirit and tradition could not have allowed themselves to be obsessed by the thought that two guards

of the Sikh community had murdered the democratically chosen leader of their great polity.

There is assertion that some incidents continued to happen even after the 3rd November but the commission is of the view that the riots had ended by that date and whatever happened thereafter was of the stray type and could not be taken to be a part of the riots.

The conclusions of the Investigating Agency in respect of thirty incidents investigated by it are available in Vol. II Appendix 4, pages 12-18.

2. (d) Role played by the Railway Administration

At the instance of the victims, the Northern Railway was called upon to produce certain documents and answer certain interrogatories. Prof. Madhu Dandvate, who was and also is now a Member of Parliament, was travelling by the Rajdhani Express from Bombay to Delhi on November 1, 1984. He filed an affidavit (no. 2641) and was also cross examined. He has, in his affidavit, stated :

"When the train reached Mathura Station on the morning of 2nd November, 1984, I found large number of armed police as well as commandos guarding the station. At this station, some outsiders entered the train.

When the train reached Tughlakabad station on 2nd November morning a large number of persons carrying iron rods, axes, crow-bars etc. entered our train. They were searching for Sikh passengers in the train. They declared that no Sikh will be allowed to leave the train alive. At that time, I found that some Sikhs in the adjoining compartments were pulled down by these outsiders carrying weapons. I found two Sikhs killed and thrown on the platform and then their dead bodies were set on fire on the platform. The police standing on the platform made no efforts to prevent either the killing or burning of the Sikhs.

After some time I found a railway employee in blue uniform and who was a Sikh came out from the Station Master's Office. He was immediately surrounded by a crowd of outsiders assembled on the platform and the Sikh employee was killed on the spot.

The train halted at the Tughlakabad station for more than 4 hours. The outsiders who had stormed the train had spread the rumour that area of Ashram Marg on way to New Delhi was surrounded by Sikhs and if the train moved towards New Delhi Station every Hindu in the train was likely to be attacked by the Sikhs. Frightened by these rumours, many persons in the train and particularly women, asked the train authorities not to move the train further.

I then contacted the Station Master and asked him to find out from the New Delhi Station whether there was any disturbance on the route from Tughlakabad to New Delhi. When found that the route was safe and that there

was no disturbance at all, I came back to the train and addressed passengers in a number of compartments assuring them that there was no disturbance on the route and if they keep the doors of the train closed so that no outsiders enter the train, the Rajdhani Express could reach the New Delhi Station safely. On the demand of the passengers I requested the police authorities to post an armed policeman in every alternate compartment. On doing this the passengers allowed the train to move forward and ultimately the train reached safely at New Delhi Station."

He further stated in the affidavit that he discovered at least 3 more dead bodies of Sikhs lying in various compartments. He was of the view that "the murders of the Sikhs and burning of their dead bodies at the Tughlakabad Station could have been definitely prevented if police at the station were not to remain passive spectators of the gruesome acts of the hooligans who had come from outside the station." His affidavit and his statement in cross examination make it clear that at Mathura which is in the State of Uttar Pradesh, the Commandos and the police parties were ready for action when the train came on the platform. He himself stated that the situation at Tughlakabad was very different. In his reply to a question by the Commission he stated :

"The police party which was standing at the foot of the over-bridge was a group of tacit spectators. No attempt was made to extinguish the fire with which two bodies were being burnt."

The evidence given by Prof. Dandvate makes several aspects clear. At Mathura advance care had been taken before the train came on to the platform to ensure that nothing went wrong while at Tughlakabad which is within the Union Territory of Delhi no such arrangement was made and the police became silent spectators when the murders took place. Nothing has been brought out in the cross examination of Prof. Dandvate to discard his affidavit. The Commission take note of the fact that Prof. Dandvate is a Member of Parliament and was once upon a time Minister for Railways and there is absolutely no justification to disbelieve his evidence.

Seven First Information Reports available on record have been taken note of in the written arguments of DSGMC. Many of these are by Railway employees.

FIR 355/84 is dated November 1, 1984 and appears to have been lodged at 12.30 p.m. The informant is one Rameshwar Dayal, Booking Clerk at Tughlakabad Railway Station. The exact narration is thus :

"At about 12.30 p.m. Bombay Janta train stationed at Railway Station Tughlakabad from Mathura. In the meanwhile a mob of about 300-350 nearby villagers holding batons, lathis, iron rods in their hands came to the Railway Station and after cornering the stationed train from all sides started dragging out the travelling Sikh passengers and started beating them with batons, lathis and iron rods and raised the slogans as 'Jan se mar do, katal kar do'. Some of these village youths were holding kerosene oil in their hands and started

setting fire to the injured Sikh passengers. Because these passengers were already injured a lot that is why they could not run here and there. Like this the gang of village youths set fire to about 25/26 Sikh passengers by spraying kerosene oil on them. These passengers expired due to manhandling and the spraying of kerosene oil on them, whose half burnt dead bodies are lying here and there on the Railway Station, Tughlakabad and on the railway track."

FIR No. 357 on 2-11-84 lodged at 10 a.m. was by the Guard of 25 Dn. Bombay-Amritsar Deluxe. This train for want of signal clearance was forced to stop at Tughlakabad Railway Station. It was alleged that 2000 men surrounded the train, removed its hosepipes and made it immobile. The men armed with lathis, sticks and iron rods pulled out the Sikh passengers, thrashed them mercilessly and set them on fire. When the police came the mob ran away. The train left Tughlakabad around 1.27 p.m. and reached Delhi at 2.05 p.m. 8 dead bodies were recovered at that place from the compartments.

FIR No. 356 lodged at the New Delhi Railway Station at 7 a.m. on 2-11-84 on the basis of a memo sent by the Asstt. Station Master, Delhi Kishanganj with reference to the incident at Nangloi Railway Station, reads thus :

"Please arrange to remove 12 dead bodies lying on platform at Nangloi to avoid panic. Also arrange armed force to protect staff and station. Heavy mob collected in and around Railway Station. Staff not in a position to perform duties."

It is clear from these as also the other FIRs where similar allegations have been made that no arrangements were made for protecting the passengers either in running trains or when trains stopped at Railway Stations - being authorised or unauthorised stoppages. If proper care had been taken and the police had remained active and played even the normal role of policemen, as Prof. Dandvate has told the Commission, nothing untoward was likely to have happened. The Commission takes note of the difference in the arrangements at Mathura Junction in UP and different stations within the Union Territory of Delhi. Whether it is RPF, Govt. Railway Police or Delhi Police, all appear to have become indifferent within the Union Territory.

From the answer to the interrogatories given by the Railway Administration it is clear that 46 trains were forced to make unauthorised halts either at Railway Stations where such trains had no stoppage or outside station areas. Some of these trains were long distance ones while others were local trains. It appears that armed men came by these trains and moved into Delhi. At convenient places they got down within the Union Territory to carry on riotous activities by stopping those trains. Obviously, when information spread that riots were taking place in Delhi, disturbed conditions prevailed, lot of looted property was available; gangsters from outside got attracted, found the situation inviting and moved into the city. The Railway Administration has also given information that hundreds of Delhi bound trains were cancelled/terminated at different places - station or otherwise- during the riots. From the dates given in regard to the unauthorised stoppage of trains and the

termination of trains it is clear that unauthorised stoppages took place on 1-11-84 and a small part of the 2nd. Cancellation/termination of train services in regard to several trains was done from 2nd afternoon. What was done on 2nd afternoon should possibly have been done from 1st afternoon because by then on account of the proximity of the Headquarters, the Railway authorities should have come to know as to exactly what was happening. The claim of the Railway authorities that the RPF handled the situation properly and rose to the occasion does not appear to be a fact. If the RPF along with local police had worked properly these events would not have happened. The protection provided with the intervention of Prof. Dandvate should have been provided in the trains operating from 31st afternoon without being asked for. In that event also these casualties would not have happened. This appears to be a case of negligence and want of assessment of the situation on the part of the Railway Administration.

2. (e) Deaths in Delhi

The Government disclosure in Parliament took the number of killings at Delhi to 2146. Before the Commission the Delhi Administration filed a list of persons upon whose death payment of compensation had been admitted and given to the next of kin. The number of such persons was disclosed as 2212.

The Commission called upon the parties-victims as also the Administration-to produce a detailed list of persons killed during the riots. Several extensions were given to both sides. It is only when the Commission insisted that the list should be filed and no extension would be granted and if necessary adverse inference would be drawn, the CJC filed a list on March 31, 1986 showing the total number of deaths to be 3870. The Delhi Administration later filed a statement before the Commission admitting the number of deaths during the riots to be 2307.

Between the initial disclosure of deaths in Delhi as made in Parliament and latest figure given by the Delhi Administration, there is a difference of 161.

At the foot of the list supplied by the CJC there has been a little arithmetical exercise. The grand total has been shown as 3949 out of which there has been a deduction of 149 on the ground of duplication and again 70 names have been added. This is how the figure of 3870 has been reached. There still appears to be an arithmetical error in the totalling of the number. The correct number should be 3874.

A copy of the list supplied by the CJC was made over to the Delhi Administration with a direction that the same may be checked up and comments as to its correctness or acceptability should be filed. In compliance with the direction Delhi Administration has filed its comments along with an affidavit of Shri Bhatia, Joint Secretary (Home).

The First Information Reports in regard to killings at Delhi put the figure at 1419. As already stated, the Deputy Commissioner of Delhi who had verified the claims has later accepted the number of deaths to be 2307. On a

comparative basis of the names disclosed in the FIRs and in the Deputy Commissioner's list, 315 persons whose names appear in the FIRs do not figure in the Deputy Commissioner's list.

The list given by the CJ C does not contain full names and all the required particulars for identification. In certain cases, for instance in respect of Delhi Cantt. Police Station, the total number of deaths has been shown to be 368 but as a fact only 320 names have been given. Thus there is no mention of any name for the remaining 48 persons.

Again in the list relating to Police Station Tilak Nagar where deaths have been shown to be of 67 persons, only 62 names have been disclosed. Reference to these two Police Stations is illustrative. Possibly, the Committee may not be blamed for this situation. In fact, a clear cut investigation into this aspect of the inquiry is not easy. On the basis of the affidavits the Commission made an attempt to collect the number of deaths but that again appeared to be both difficult as also misleading.

In many affidavits names of the killed have not been specified. There are several affidavits which refer to the same deaths. Again, many deaths are not covered by any affidavits. In such a situation affidavits do not provide a sound basis for determining the number of people killed during the riots. It is in evidence that hundreds of the people so killed were burnt while they were half dead or while they were in an unconscious state or had already died.

The DSGMC has specified in written arguments names of 73 people who were burnt alive, 7 who were burnt after they had become unconscious and 13 persons who were burnt after they have died. There is evidence that hundreds of charred bodies were recovered. These obviously and also those that had been burnt were not subjected to post-mortem. If post-mortem on other dead bodies had been made the post-mortem figure itself would have provided a sound basis for determining the number of dead people.

It is a fact that Delhi has a lot of floating population and hundreds of Sikh people from Punjab keep visiting Delhi every now and then on account of proximately and business activities, sight-seeing and other family necessities. There have been many affidavits before the Commission where reference to such visiting, guests to have been affected during the riots has been made. Similarly, every now and then a number of regular residents of Delhi go over to Punjab.

On the basis of ration cards where the total number of members of every card holder family is indicated, proper calculation cannot be made because there are several people residing in Delhi who are not card holders. There are ghost ration cards in existence and ration cards also do not reflect the exact number of people in the family. Many people who had gone over to Punjab did not return soon after the riots on account of the continuing disturbed conditions.

All these circumstances have made the inquiry for ascertaining the definite number of people who died difficult. The number has, however, to be

somewhere between 3870 (arithmetically corrected to be 3874) and 2307 -- the higher figure coming from the Committee and the lower figure having been admitted by the Delhi Administration.

Placed in this situation, the Commission has not endeavoured to ascertain the exact number of people who died during the riots. Simultaneously, it is a fact that the matter cannot be taken as concluded until the exact number is ascertained by a further inquiry. Death gives rise to definite consequences and brings in certain considerations. As already found, the next of kin become entitled to a compensation of Rs. 20,000; the recommendations of the Commission may bring about certain other benefits, and if there be a widow or dependent relations left behind, she is or they are entitled to certain advantages.

It is quite likely that in some cases the next of kin may not have come forward to raise a claim on the basis of death. The manner in which the Delhi Administration has been changing the figure by conceding the claim leads the Commission to accept the position that if there be a further probe and of a closer type, it is quite likely that the number may increase.

Keeping these aspects in view the Commission recommends that instead of accepting a definite number as the final list, the matter should be kept open for further examination where the number shall not go below 2307 and may not go beyond 3874. But in between the exact number should be ascertained.

The modality for ascertaining this should be by the appointment of an officer with full powers to go into the matter and he should give public notice to invite claims of death within the Union Territory of Delhi during the period of riots (October 31 to November 7, 1984) by fixing a time for raising of claims and also a date for finalising the same in accordance with a procedure behoving the rules of natural justice and the figure should be determined.

As and when any new name is added to the already accepted list of 2307 by the Delhi Administration, the benefits contemplated in respect of the dead people should be extended to the next of kin. Since delay might make the inquiry not beneficial the modality proposed in the recommendation may be implemented without delay and a time-frame should be prescribed.

3. An assessment of the situation

On the morning of October 31, 1984, after Smt. Gandhi had been removed to the AIIMS with bullet injuries and when she succumbed to them, there was, as it were, a political vacuum. The Head of the State was away from the country in Yemen Arab Republic. On his return, Shri Rajiv Gandhi was sworn in as Prime Minister of India. By the time the mother was injured by bullets, he was away somewhere in West Bengal and before he returned she was dead. He had lost his brother four years earlier. Now the mother was dead being killed by the people detailed to guard her. He must have been indeed terribly shocked and it is difficult to describe the type of mental agony he must have then been undergoing. He was called in to shoulder the responsibility of Prime Minister of India without any time to get mentally tuned to undertake the heavy responsibility of that august office.

After being inducted into the office of the Prime Minister, he made an effective appeal to the nation through the T V at 9.50 P.M. where he said :

"My dear Countrymen, On this the saddest day of my life I speak to you when I am totally overtaken by the dark cloud of cruel fate. Our beloved Mrs. Indira Gandhi is no longer with us. I have lost my dearest friend, we have all lost one of the greatest leaders our country has ever produced and the world has lost a harbinger of peace who was undoubtedly the greatest woman leader mankind has ever produced..... The loss of Mrs. Gandhi is for me unbearable. In spite of her pre-occupation with her official duties, we met often. For me each such meeting was a memorable experience..... The dastardly act of assassins which is not only heinous but a crime against humanity itself, has put the nation to test at an extremely critical juncture of our history. The unity and integrity of the nation is being challenged. Let our grief not cloud our good sense and maturity both as individuals and a nation. God shall grant us the strength to meet the new challenges."

He also instructed the people concerned to take effective steps to see that there was no deterioration in the law and order situation. If necessary, he advised that the Army may be called in. When the news of Smt. Gandhi's death spread, thousands of mourners started calling upon the new Prime Minister to convey condolences. The dead body was taken from the AIIMS to the official residence at 1, Safdarjung Road.

It was decided to keep the body in state at Teenmurti Bhavan for a few days to enable the people of India as also Heads of States of the world to pay respects to the departed soul and participate in the official funeral. Funeral was fixed for November 3, 1984.

Hundreds of thousands of people started collecting in Tenmurti Bhavan to have a last glimpse of their beloved leader. Arrangements for reception of the visiting dignitaries from different countries who were coming to participate in the funeral had to be undertaken. Keeping up to protocol, Shri Rajiv Gandhi had to receive many of these dignitaries.

Evidently Smt. Gandhi had been killed in the hands of the security guards on account of lapse in security arrangements. The way in which she had been

killed left scope for doubts about the efficacy of the security. The situation had indeed been an alarming one. Whether evil designs had come to an end with Smt. Gandhi being killed was not definitely known. It is in these circumstances that Shri Rajiv Gandhi had been called upon to shoulder the arduous responsibilities of the office of Prime Minister of the largest democracy.

In the morning of November 1, Smt. Gandhi's body was taken to Teenmurti Bhavan from No. 1 Safdarjang Road to lie in state so that the mourners could take the last glimpse of her physical body. The arrangement at the Teenmurti Bhavan was two-fold-VIPs were permitted to come into the room through the guided entrance to file past the dead body and those who wanted to make entries in the condolence register were permitted to do so; the common people were allowed to march past on the outer side without coming into the room.

Thousands of people thronged in the premises of Teenmurti Bhavan in the morning of November 1, 1984. The Delhi Police found it almost impossible to keep control of the situation at Teenmurti Bhavan and by the afternoon the Army had to take over the control. The low key of the Delhi Police seen at Teenmurti Bhavan was an exhibition of lack of leadership, imaginative planning and incapacity to control mobs in an odd situation.

In several of the affidavits filed before the Commission it was alleged that through the Doordarshan on November 1, 1984, a program was arranged wherein it was said "khoon ka badla khoon" (blood for blood) obviously suggesting that as Smt. Gandhi had been murdered, the community of the two murderers should also be done to death. It was suggested that Shri Rajiv Gandhi was within the Teenmurti Bhavan during the morning hours of November 1, 1984. His presence there was quite natural and he had obviously nothing to do with the T V program.

The Union of India denied having undertaken any program in which Doordarshan had permitted shouting of a slogan ----'blood for blood'. It appears that after the dead body was taken to Teenmurti Bhavan on November 1, live telecast arrangement had been made covering the dead body lying in state and the people who would move around either in the room where the dead body was kept or the crowd that would fly past on the outer side at the lower level so that millions in the country who could not come to Delhi would be able to associate themselves with what was going on at Teenmurti Bhavan. In the morning of November 1, a group of people passing through the passage at the lower level did raise the shout 'khoon ka badla khoon'.

Since the live telecast arrangements had then been working, the crowd along with the shout did come on the TV and their shout was heard. When directed by the Commission, the Director-General of Doordarshan appeared before it and explained the situation in which this part of the program had been covered and to substantiate the explanation, he exhibited that part of the cassette where the shouting crowd were seen and their shout was recorded.

The Director-General explained that the officers of the Doordarshan never apprehended that a crowd paying respect to the departed leader would raise such a shout which on account of the live program would get televised. The moment this was realised the live telecast arrangement was switched off. When the cassette was played, the Commission found that the shout had been repeated for 18 times spread over 37 seconds. The impugned shouting came all of a sudden at high pitch which probabilizes the position that Doordarshan people could not have apprehended it. It melted away as the crowd was pushed ahead by the police. From the original cassette, the Commission has made a copy. Though it had been alleged that this telecast was arranged, the Commission is of the view that neither the Prime Minister nor any one in Government had any role to play in the matter and the Doordarshan authorities did not intentionally do anything. The time lag between the objectionable matter being telecast and the switching off also is not unreasonably long to suggest, as alleged, that Doordarshan wanted it to continue. The Director-General of Doordarshan also told the Commission that care was taken thereafter to keep off any objectionable matter from being included in the live program.

There is no basis for the allegation that the All India Radio and Doordarshan had given out the news that Smt. Gandhi's assassins were two of her Sikh guards and circulation of such information through news media helped generation of anti-Sikh bias. The Commission has scrutinised the news scripts of both media for the 31st October and 1st November and it is noticed that there is no mention at all that the assassins were Sikhs. Mention of this information in ordinary course would have been considered as usual but discretion appears to have been exercised thoughtfully in this case.

It was unfortunate that the happenings in different areas of Delhi were not being contemporaneously reported to Police Headquarters and there was, therefore, no proper feeding of what was happening even to the Administrator-Lt. Governor. Shri Gavai has admitted :

"I am inclined to agree that there was a failure in the channel of communication between local officers and the police and the district administration as also the Commissioner's level. Consequently, contemporaneous and timely reports of incidents were not received at the other end. A true picture of the situation was not emerging and decision making was, therefore affected."

Since this was the position at the level of the Administrator, the exact picture of what was happening must not have reached the Home Minister or the Prime Minister. There is material placed before the Commission from which it appears that while Shri Rajiv Gandhi was in mourning and was busy giving occasional attention to the dead body lying in state at Teenmurti Bhavan and receiving foreign dignitaries who started arriving from the evening of November 1, 1984, he had tried to ensure maintenance of law and order and was giving directions in that regard. He requested the visiting Chief Ministers to return to their respective States and ensure that all possible steps for the maintenance of law and order were taken.

When the worst had happened on November 1, Members of Parliament and other leading people started raising hue and cry and ultimately called upon the Prime Minister. An assessment of the situation was then made. The Lt Governor was attending this meeting. Shri Gavai has told the Commission :

".... after I had met the Prime Minister in the meeting of MP's at his residence I had asked for a personal interview with him and he obliged. He told me 'Gavaji you should have acted more swiftly in 'calling in the Army '. I did not enter into any argument with him on that score but I said : "Sir, your mother was a great personage and that her assassination was a major calamity which had befallen the nation. Her assassination was bound to cause repercussions."

He continued :

"In the course of this talk, I pointed out that during the curfew period there were many occasions when bystanders came out of their houses just to see what was going on. Government did not expect the administration to shoot those people as curfew breakers. I further pointed out that any such move would have been a politically unwise action. After that when I was hanging about there the Prime Minister told me : 'Gavaji, you are a heart patient and you should now take rest.'

It is in the evidence of the then Lt. Governor that he was soon advised to proceed on leave. On November 3, he wrote a letter to the President wherein he stated :

"Although I have no reason to believe that I have failed in my duties in the unprecedented circumstances, I hereby resign from the post of Lieutenant Governor out of my sense of moral responsibility.

An indication of my intention to resign was given by me to the Cabinet Secretary and also the Home Minister on 2nd November, 1984 itself, but I had withheld it as it was necessary for me to oversee the arrangement for the funeral of the late Prime Minister from our side. "

The letter contains an admission of moral responsibility for what happened at Delhi. Perhaps it was something more than that. The Commission does not propose to go into that aspect and assess the extent of his responsibility. Shri Gavai had already suffered a major heart attack prior to the riots and had very likely become unfit to continue to take any physical load upon him. He should not have been maintained in a key post like that of Administrator of the Union Territory at such a crucial period which had started soon after the Blue Star Operation. Shri Gavai is in broken health and when he appeared before the Commission, he gave the impression of having broken down after the riots and what followed thereafter.

What the Prime Minister could assess on the 2nd November 1984, within two days of assuming office and after a few rounds to the riot affected areas

should have been realised long before and perhaps Shri Gavai should have been replaced after he had suffered a massive heart attack. The post of Administrator should have been manned by a very competent person -- agile, astute, determined, experienced, farsighted, knowledgeable. The need for such a person for Delhi was all the more so on account of the primacy of this Union Territory as covering the seat of the country's capital and in the backdrop of the development that had then currently taken place.

There is material on record that Shri Rajiv Gandhi moved in certain affected areas on 2nd November with a view to having a spot assessment of the situation and for boosting up the morale of the riot victims. Even on the 3rd he took another round as would be noticed later. On the morning of 4th November Shri M.M.K. Wali, the then Home Secretary was sworn in as Lt. Governor.

On November 3, the cremation took place and once the cremation was over the Prime Minister who was until then busy in receiving visiting dignitaries and overseeing the arrangements for the cremation started devoting almost full attention to the riot situation.

The Commission is of the opinion that Shri Rajiv Gandhi as the Prime Minister, notwithstanding the handicapped situation in which he then was, took all reasonable steps expected of him to meet the situation that arose following the assassination of Smt. Gandhi. He even moved into the affected areas against advice on the ground of security and made a personal assessment of the situation and boosted up the morale of the victims. His appeal on the 31st October, his address to the nation on the 1st November, the condemnation of riots in strong terms, his action in sacking the Administrator and the overall posture adopted against the mad crowd leave no scope to entertain the allegation in a couple of affidavits that he too had something to do to help the unseemly situation.

In quite a number of affidavits there was allegation that Shri H.K.L. Bhagat, Minister in Smt. Gandhi's cabinet and continued in Shri Rajiv Gandhi's cabinet, insinuated the non-Sikhs to take revenge on the Sikhs as two of their people had murdered Smt Gandhi. Implicating of Shri Bhagat in the affidavits before the Commission was perhaps in the air and hundreds of affidavits were filed before the Commission, a few from Sikhs and mostly from non-Sikhs to say that Shri Bhagat had no role to play in organising the riots ; on the other hand, he had helped the Sikhs and attended to their discomforts and looked after rehabilitation.

The Commission has dealt with these affidavits separately and for reasons indicated there not much of reliance has been placed on most of these affidavits. Even if these affidavits are kept away, the allegations made in the affidavits from the victim's side have to be scrutinised on their own merit.

Excepting a handful of affidavits where it has been alleged that Shri Bhagat had come to meetings along with some other local Congress (I) leaders in the night of the 31st October or in the morning of the 1st November, and in a few

affidavits alleging distribution of money by him to boost up riots, the allegations are not very positive or specific. The Commission had no intention of separately dealing with the case of Shri Bhagat but as this was very much highlighted, was inquired into by the Investigating Agency, evidence about it was specifically led and the affidavits which the Commission has not very much relied upon were pressed into service, the Commission has thought it appropriate to deal with it.

The Commission makes it clear that these are *prima facie* conclusions as far as he is concerned. In the list at p. 219 of the written arguments of the Committee where 16 instances are cited he is said to have held a meeting of party people. The evidence regarding what transpired at the meeting is scanty.

Shri Bhagat was a sitting Member of Parliament from East Delhi constituency wherein a bulk of the tragic incidents have happened. Some people belonging to the Sikh community have deposed before the Commission that Shri Bhagat had good relationship with the Sikhs and had helped them during the November riots. Shri Gavai, the then Lt. Governor in his evidence before the Commission has stated that on November 1, 1984, Shri Bhagat and Shri Jag Pravesh Chandra had been constantly ringing up Raj Niwas for assistance in the affected areas. Shri Gavai, on account of the treatment meted out to him, was likely to have a grievance against the Government and those in Government. His statement so far as Shri Bhagat is concerned, therefore, should be accepted as closer to truth. Shri Bhagat being a sitting M.P. and Minister was not likely to misbehave in the manner alleged. Shri R.S. Sethi, who was then the District Magistrate, has also spoken thus :

"I did not see any political leader of any party moving about to support the riotous mobs. In view of the fact that I was freely moving about during that period and came across several mobs in different areas, I am in a position to say that if they had really come out and joined the mobs, I could have seen them."

People of the Sikh community being electors of his constituency, Shri Bhagat, keeping the democratic politician's behaviour towards the elector in view, was not likely to antagonise the Sikh sympathy towards him.

There is evidence that in the election to the Lok Sabha held almost within seven to eight weeks of the riots, certain members of the Sikh community worked in support of Shri Bhagat. For instance, in the affidavit filed by Shri Tara Singh [No. 2531] it is stated that he so worked for Shri Bhagat. Some other Sikhs have also accepted that position. If Shri Bhagat had indeed played the role of an organiser of the riots, it is difficult to find even a single Sikh supporter in his camp. The rioters had no 'pick and choose' method in their operations and when they attacked a Sikh or his property they never enquired about his antecedents or party affiliation.

It was an attack against the community. Shri Balwinder Singh [no. 2163], a member of the Sikh community stated in his affidavit that he contacted Shri

Bhagat on 1-11-84 on telephone and apprised him of what was happening. He was then told by Shri Bhagat that Sikhs and Hindus should join and put up a common front to meet the situation. He also told him that he [Shri Bhagat] was trying to ensure arrival of a CRP unit within an hour.

This is evidence of an assuring type and does indicate against the allegation with reference to Shri Bhagat. There is another material on record for consideration while dealing with this aspect. It is the case of the victims -- and has either been accepted or not seriously disputed by others--- that the attacking mobs used to swell up while moving on the lanes and roads --- a feature to suggest that the rioters were not an organised team and were made up by a section of the community willing to play to the mood of the people, satisfy their hurt sentiments by harassing the Sikhs and share the booty.

Again, if violence had been organised, it would have spread into every corner and the manner in which it abated may not have been possible. In the absence of convincing material, the Commission is not in a position to accept the allegation that Shri Bhagat had instigated the rioters.

That violence was let loose in Delhi between October 31 and November 3, 1984, is not all in dispute. Nor is there much of dispute that this violence was essentially one - sided, namely, the non-Sikhs attacked the Sikhs and damaged, looted and burnt their properties-moveable and immoveable, Gurdwaras and killed a few thousand of them.

If the party in power or a minister or well-placed person had masterminded or organised the riots, the same would have taken even a more serious turn. It is the case of all parties before the Commission that in certain area there was no trouble of any noticeable degree and two reasons have been advanced for such a situation-(i) effectiveness of the local police ; and (ii) raising of combined defence of the local residents. If the Congress (1) party or a powerful force in the party played any role, neither of these two elements could have functioned in the manner each of them has been ascribed.

The Commission, with view to ascertaining what exactly worked to make the police passive, indifferent and callous, has perused a lot of contemporaneous records and examined several official witnesses. The Investigating Agency also did try in its own way to delve into the matter. In answer to searching questions put to the police officers, they have denied any political force to have operated behind the scene in the matter of formulation of their attitude and conduct. The manner and the setting in which the questions relating to this aspect had been asked would in ordinary course have brought out such implication if it were true to any extent.

The Commission has noticed that in a few affidavits the hand of the party politicians was alleged. Some of the deponents were cross-examined and they have not stood the test while some have not broken down. All the material on the record in the ultimate analysis is not evidence of that type relying on which the Commission can record a finding that Congress (1) Party

or some leaders in that party had organised the violence which manifested in the shape of riots.

The Congress (I) Party denounced riots by regular resolutions adopted at official meeting of the party. The Commission had at the instance of the CJC collected the newspapers published from Delhi during the 1st and 5th November, 1984. From the Hindustan Times 2-11-1984, it appears that the Delhi Pradesh Congress Committee (I) on 1-11-1984 released the following statement :

"Unity of the country was dearest to her (Smt. Gandhi) and she has given her blood for it. The unity of India must not only be preserved and strengthened through tolerance and communal harmony but also good neighbourly relations. Violence in any form anywhere in the country must be condemned and eschewed. The incidents of violence in the capital are condemnable and every citizen must cooperate fully in maintaining peace and normalcy in the country. Use of any violence in any shape or form would only negative and weaken the ideals for which Mrs. Gandhi stood and died."

The Congress (I) Working Committee on November 1, 1984 appealed to the countrymen to exercise restraint, maintain peace and harmony among all sections of the people and to uphold the unity, integrity and security of the nation for which Indira Gandhi laid down her life.

In the face of these resolutions of November 1, 1984 by the Central and Union Territory party organs, it is indeed difficult to allege, much less discover, unseen hands of the party behind the violence perpetrated so dastardly over member of the Sikh community at Delhi. If the Congress (I) party or some of its highly placed leaders had set the rioters to operate, one would expect the Sikhs with Congress base and affinity to have escaped the depredation. No distinction appears to have been made by the rioters and there is no single instance placed before the Commission where the plea of Sikh that he belonged to the Congress (I) had ever been acceded to by the rioters.

It is in the written submissions of DSGMC on behalf of the riot-victims that even some of the enquiries conducted unofficially had led to the conclusion of suspicion only of such implication. The evident passivity of the police- a very unusual role in police history and tradition-gave rise to the scope for suspicion. Many perhaps genuinely thought-in the situation it cannot be said to be too far-fetched to be thought of-that it was the magic wand of the politician that tamed the police. Acting under impression which some have believed to be true, the allegation of implication seems to have been made.

Support for the conclusion of the Commission that uncontrolled events of the 31st October transformed themselves into riotous activity with the participation and monitoring thereof by the anti-socials also can be drawn from the facts highlighted in the written arguments furnished by the DSGMC. At page 221 (of the written arguments) it has been said:

"The mob was jubilating and dancing. There was no sign of sorrow and grief on their faces. They were no mourners of the Prime Minister, Mrs. Indira Gandhi but were totally unconnected with it."

Eleven affidavits being of Smt. Trilochan Kaur (no.2411), Smt. Gurdeep Kaur (no. 2307), Smt. Harjeet Kaur (no. 2708), Smt. Sarabjit Kaur (no.166), Smt. Nanki Devi (no. 2550), Smt. Prakash Kaur (no. 2396), Smt. Prakash Kaur (no. 2407) Shri Tara Singh (no.2531), Smt. Balwant Kaur (no. 2690), Shri P. Miglani (no. 2527) and Shri B.S. Kapoor (no. 2376) have been cited with preference to the conduct and behaviour pattern of the people in the mobs in pages 221 to 224.

Anti-social gangsters obviously had no mourning to observe. The troubled atmosphere provided them with opportunity to plunder and otherwise satisfy their animal desires and, therefore, the conduct exhibited of the people in the mobs shows that the constituents of the mobs were the anti-social ruffians and usually not the people of Smt. Gandhi's camp or party who ordinarily were likely to exhibit mournful conduct. As already extracted from the news report, they were in low spirit everywhere after the shock.

At page 226 three instances have been cited which show that outsider came and incited the local people to join the riots. Reference has been made to the affidavits of Smt. Prakash Kaur (no. 36), Shri Ishar Singh (168) and Shri Avtar Singh (172) ---all on the victim's side ----to show that outsiders came in a truck and incited the local people.

Along with these, the Commission would like to refer to an analysis presented at pages 216 -- 218 of the written arguments where a list of "organisers of the carnage "at the local level is given. Nineteen instances have been catalogued where people associated with Congress (1) have been named as organisers. Of them fourteen are described as workers either of Congress (1) on its youth wing ; four are said to local Congress (I) leaders and the other being the Secretary of a then Congress (1) M.P.

Conceding that there is no particular reason to disbelieve the allegations so tabulated, considering the position occupied by these people, the Commission is not in a position to hold that from their participation, the Congress (1) party as such can be found to have organised the violence. On the other hand, these details supplied by the DSGMC fortify the conclusion that some people of the Congress (1) party on their own had indulged and participated in the turmoil for considerations entirely their own. Every person who takes a dip in the Ganges is not purified. Similarly, everyone in the Congress (1) is not a Gandhi believing and practising non-violence. The party label, therefore, does not attract the party nor takes away the individual element.

The Committee in its written submissions at p. 55 has stated :

"A perusal of the record supplied by the Fire Brigade shows that the violence started in the evening (of the 31st) from areas around All India Institute of Medical Sciences. The first call which the Fire Brigade received about fire was

at 5.30 p.m. on 31-10-84. A careful scrutiny of the record shows that the rioters formed different groups, started from All India Institute of Medical Sciences and indulged in violence. One of such groups proceeded towards Defence Colony from AIIMS and on the way indulged in arson at Kidwai Nagar, NDSE I & II, Andrews Ganj Chowk and then at Defence Colony. Another group proceeded towards R. K. Puram from there and indulged in violence on the way.

One group proceeded towards Prithviraj Road and a different group towards Hauz Khas.....The routes followed by these groups can be easily traced on the perusal of the record of the Fire Brigade."

A map showing this route has been placed by the Committee with the timings of the incidents shown therein on the basis of the Fire Brigade records.

It is clear from these materials that arson on large scale had been undertaken by these mobs after leaving the AIIMS. In the written submissions it has been further stated at p. 56 :

"By about 8 p.m. on 31-10-84, the word spread throughout the city and at some places in the city some persons indulged in violence. But till late night the main incidents of violence in the city were reported from the areas of South Delhi where the aforesaid groups were operating."

It is reasonable to hold on the basis of what has been said above and on the basis of the news report of incidents extracted while dealing with the incidents of the 31st October, that the genesis of the riots began from the AIIMS where large crowds had gathered following the removal thereto of Smt. Gandhi in an injured condition for medical attention. Soon after the President left after his cavalcade was attacked, not the dispersal of the crowd started and this crowd which had been impatiently waiting at the AIIMS for the news fate had in store, became divided into groups and moved away.

There is no allegation much less evidence before the Commission that any plan was hatched at the AIIMS and/or passed on to the crowd. There is evidence which has been noticed in the written submission of the Committee that a good number of Sikhs had also come to the AIIMS and were in the crowd. If anything was hatched and spread, they would have known and were expected to disclose. The AIIMS was not the place where any planning could have been done. Again, that was not the time appropriate for hatching any plot.

Anxiety and tension had spread everywhere and all the people who had been waiting to know whether the Prime Minister shall live or has perished could be in no mood to hatch a plan or talk to someone or group guiding them.

Unless pre-planned (Smt. Gandhi's killing being sudden there is no scope for the view of pre-planning) within such a short time and in that atmosphere no planning could have been done. Thus the stand that violence was organised is difficult to accept. On the other hand, as held earlier, the evidence fits into

the position that when the incidents started taking place and the police remained passive, leading to the generation of feeling that if Sikhs were harassed no action would be taken, the situation fast deteriorated and the anti-socials got into the fray and gave the lead after taking over the situation.

It has now to be seen whether the violence was organised. The word 'organised' according to the Shorter Oxford English Dictionary means "to form into a whole with interdependent parts; to give a definite and orderly structure to; to arrange or get up something involving united action ". The Oxford English Dictionary gives the meaning to be "to form into a whole with mutually connected and depended parts; to coordinate parts or elements so as to form a systematic whole ; to give a definite and orderly structure to ; to systematise ; to frame and put into working order; to arrange or 'set up 'something involving united action."

Black's Law Dictionary gives the meaning as "to systematise; to put into working order; to arrange in order for the normal exercise of its appropriate functions. Webster's Third New International Dictionary gives the meaning of the word as "to arrange or constitute into a coherent unity in which each part has a special function or relation."

In Words and Phrases, Permanent Edition, the word is said to mean "to arrange or constitute in interdependent parts, each having a special function, act, office or relation with respect to the whole. "Reference may be made to the chapter on Organised Crime in Criminal Investigation (IIInd Edition) by James N. Gilbert (1986 Edn.) in which at p. 434 it has been said : "They (such groups) typically involve a sizeable number of individuals in the planning and execution. A true organised crime groups requires a continuous commitment by its members, although there may be some non-members participating for short periods of time."

"To organise" thus involves a process which requires time, men, money and an aim or goal to achieve which the organization is done. There is no material before the Commission to suggest that some Congress (1) men had undertaken any process involving the elements referred to at the AIIMS on the 31st. For reasons indicated elsewhere, the Commission has come to the conclusion that violence was not organised by the Congress (1) party or any official that matters in the party.

Even if "organised" involves the concept as mentioned above, in ordinary parlance it perhaps covers instances where a process is systematised. In that popular sense -- and the Commission takes the phrase 'organised violence' in the reference by Government to have been used in that sense -- the riots after spontaneous origin got into channelized methods in the hands of gangsters. It would not be wrong to say that there was organised violence at Delhi and that was done by the anti-social elements and in the riots, thousands of people who do not really belong to the classification of anti-socials did participate. Many of these participants were people from the lower ranks of the Congress (1) party and sympathisers.

The Commission has accepted the position very appropriately advanced on behalf of the victims that the entire community of the Sikhs constituting about two percent of the country's entire population could not be made to suffer for the act of two misguided persons of that community. The Commission cannot keep aside that logic while dealing with the issue of involvement of the Congress (1) party as such in organising violence. It cannot, therefore, draw a conclusion inferentially from the fact of participation of party workers and sympathisers or some leaders at local levels that the Party was involved in organising what has perhaps been rightly called carnage.

The Commission accepts the evidence placed before it that most of the mobs were from areas different from where they operated and only a few local people had joined such mobs to facilitate the operations. In some areas, however, local people had also organised riotous activities. In the mobs of both types people of different communities (not being Sikhs) did join. The anti-social elements monitored the activities of these mobs and played the principal role in killing, looting as also arson. In these mobs people with sympathy for the Congress (1) and associated with party activities appear to have also joined in good number.

The Congress Party at the lower level --- like any political party anywhere---- has loose ends and from the fact of participation of people belonging to the party at that level it is difficult to accept the stand that the Congress (1) party had either organised or participated as such in the riots. Such participation was not on party basis and it seems to be a fact that a number of people belonging to the Congress (1) party at the lower level had participated in the riots. Anxiety to participate in that way perhaps was either with an avenging attitude -- their leader having been done to death by two Sikh guards -- or from the allurement of acquiring property by fishing in troubled waters.

As the Commission has already found, the riots at the initial stage were spontaneous and by way of reaction to the situation but later the riots developed into a set type. The change in the pattern from spontaneous reaction to organised riots was the outcome of the takeover of the command of the situation by anti-social elements. It is said that Satan too has a process and when taking to stannic activities the anti-social elements took to their organised process. This is how --- and in this sense ---violence in Delhi was indeed organised but such organisation was not by any political party or a definite group of persons but by the anti-social elements which as will be shown in another part of this report is quite a formidable and powerful element in the Indian capital. It would not be out of place to record here the finding of the Commission that the pattern followed at Kanpur and Bokaro was the same. At Kanpur serious incidents took place on October 31 itself and some on November 1, 1984. At Bokaro most of the incidents were in the morning of November 1, 1984. As found by the Commission, organised pattern in rioting appeared in Delhi after 9 or 10 in the morning of November 1. There was thus no connection in the activities of Delhi and the activities of Kanpur and Bokaro. They were all locally based: organised locally too and came with the expertise of the anti-social elements and they have a common pattern all the world over.

It is useful to refer to a passage from Hubert Blumer (quoted in 'Collective Behaviour 'by A.M. Lee in Principles of Sociology ----1951) where it is said:

"Individual behaviour changes in certain respects in the presence of other people. In most instances, their presence tends to have a restricting effect on behaviour. However, under certain conditions, there is permissiveness about a crowd situation that induces individuals to act in a less restrained way. An individual may normally never think of looting a store, but when others are doing so, he may join them. The thought that 'everybody is doing it' and the feeling that as an individual he cannot be singled out and punished for his act may be responsible for this change of behaviour."

The anti-social elements had obviously the support of a vast group of people who ordinarily would not have liked to do what the anti-socials did or do.

A detailed statement of First Information Reports, Investigations with results, charge-sheets and pending cases is in Vol. II Appendix 5 at pages 13-18.

4. Damage to Gurdwaras and Educational Institutions at Delhi

In answer to interrogatory no. 48 of Application no. 43 of 1985 put to the Delhi Development Authority, its Director (Works) has disclosed that 131 Gurdwaras located in different areas of Delhi were repaired by the Authority. This position has also been accepted by the Delhi Administration. It has in answer to interrogatory no. 46 (a) given the total number of Gurdwaras affected by arson, looting and burning to be 180.

Obviously 49 of the damaged Gurdwaras were not repaired by the Authority and that explains the figures of 180 and 131. The details of these Gurdwaras are available from the answer and the list is found in Vol. II, Appendix 6 at pp. 19 - 21.

Reference to the list would show that the Gurdwaras were spread over different areas of the city. There is also a disclosure that 11 educational institutions, each one founded and run by the Sikh community, had been damaged and were repaired. These educational institutions as the particulars (Vol. II Appendix 7 p. 34) would show, are also spread over different parts of the city.

From the fact that so many Gurdwaras and educational institutions had been damaged, it is reasonable to hold that the rioters not only had the Sikh population as their target but also kept an eye on their religious institutions. Perhaps for the first time in recent history such a large scale mobilization against religious institutions of one particular community has been done. Gurdwaras as places of worship are sacred.

The scriptures kept there are holy and held in the greatest esteem by Sikhs. Guru Nanak, the founder of Sikhism, as detailed elsewhere, was a Hindu and he preached a religion and stood for a philosophy equally holy, sacred and acceptable to the Hindus.

Gurdwaras as places of worship of Sikh brothers deserved to be looked upon as holy and sacred and great reverence should have been shown to those.

The fact that Gurdwaras were made the target of widespread attack is an exhibition of conduct lacking faith, devoid of respect for religion and the rejection of the traditional approach. Mob frenzy and lust for stolen articles tempted the crowd to direct its attention towards holy places.

There is evidence before the Commission that many of the Gurdwaras were looted.

5. Role of the Police

Speaking about the strength of the Police force of Delhi, the then Police Commissioner Tandon has said:

"At that time there were about 22,000 Constables, 3,000 Head Constables, 900 Asstt. Sub-Inspectors, 1,500 Sub-Inspectors, 500 Inspectors, about 200 Asstt. Commissioners of Police, 35 Dy. Commissioners of Police, 6 Addl. Commissioner of Police and one Police Commissioner in the Delhi Police establishment."

Delhi at that time was divided into five police districts and 63 police stations and there were 25 police posts. It is a fact that the police establishment had not been expanded commensurate with the expansion of the population and problems. The police administration had been of the view that a greater number of police stations was necessary to exercise effective control and the outlying areas which were thinly populated and into which revenue villages had been included required more of attention.

Every police station has a Station House Officer of the Inspector's rank and to it are attached a definite number of Sub-Inspectors, Asstt. Sub-Inspectors, Head Constables and Constables. At the headquarters, there is a Central Control Room. Every police station is fitted with wireless arrangement for keeping immediate contact with the headquarters as also the Control Room. The police force of Delhi is a part of the Delhi Administration and members of the force are not transferable outside Delhi.

Once someone is taken into employment he is assured of service (subject to disciplinary control and adverse orders, if any) within the compact territory and transfer from one police station to another is not a serious matter for the officer as it hardly involves a distance of 30 - 40 km. at the most. The Commissioner of Police is necessarily a senior IPS officer but the setup of Delhi Administration has become such that he is under the administrative control of the Home Secretary of the Delhi Administration who very often is a comparatively junior officer of the Indian Administrative Service.

Sometimes misunderstanding creeps up in regard to exercise of this control on account of this situation. Under the constitutional scheme the President being in overall charge of the administration and such administration being run with the aid and advice of the Cabinet, the Home Ministry of the Central Government is the authority to exercise the controlling jurisdiction. But the Administrator designated as Lt. Governor is in direct charge of law and order and the Police Commissioner is certainly subject to his control.

As mentioned in another part of the Report, Shri S.C.Tandon, IPS, was the Police Commissioner at the relevant time. He had the authority both to promulgate orders under section 144, Cr. P. C. as also impose curfew. Beat system prevailing earlier in Delhi had been abandoned for quite some time. No one could tell the Commission the precise reason for such abandonment.

The general criticism against the Indian Police that it failed to take note of the changed situation in the country following independence and did not adapt itself to the requirements of an independent welfare State applies equally or even in a greater degree to the Delhi Police.

Undoubtedly the police during the British regime was intended to be a protector of the interests of the foreign ruler. Though the Britishers left and India had its own people to govern, the special loyalty to the people in power which was the hangover of the British imperial tradition continued. The police failed even to realise that its new masters in free India were the common people of India.

On October 31, after the Home Secretary had alerted the State administration, Delhi Police had also been alerted in its turn. Prohibitory orders under s.144, Cr. P. C. had been promulgated by the Police Commissioner. Wireless instructions had also been issued to the Police Stations.

On October 31, itself instructions marked ‘Secret’ and ‘Most Immediate’ and with the subject-title “Special precautions to be taken for maintenance of law and order in Delhi “were issued to all Addl. Commissioner of Police, all Distt./Unit DCP’s including Principal, PTS and FRRO. Therein the justification for issuing those directions was explained thus :

“In view of the extremely tragic incident of assassination of the Prime Minister of India at the hands of two police personnel belonging to a particular community which may provide a reaction from other communities, there is a need for putting the entire police force in the Union Territory of Delhi on alert and take adequate steps for maintenance of law and order and communal harmony in the Union Territory. All senior police officers may make suitable arrangements in their respective District Unit to achieve these objectives.”

Under paragraph 2 the aims and objectives of the police arrangements were stated to be :

Maintenance of law and order and crowd control;

Providing adequate security to the VVIPs;

Arrangements to regulate the crowds who come to pay homage to the departed soul and suitable arrangements for funeral procession;

Maintenance of communal harmony and ensuring normal city life;

Protection to places of worship and vital installations.

Clear instructions were given that visible police patrolling in strength may be organised in the city, particularly near the Gurdwaras and other vulnerable points like shopping centres etc.; armed pickets should be deployed in communally sensitive areas, particularly where there is a mixed population

and these instructions were said to be necessary for preventing any incident of arson, looting or damage to life and property.

It was also mentioned therein that a request had been made to the Home Ministry to provide as much outside force, i.e. BSF, CRPF and ITBP, as possible and to bring forces from neighbouring States to augment police arrangements in Delhi. The Commandant-General, Home Guards, was also requested to provide as many Home Guards as possible for three days. Preventive action was proposed against anti-social elements and bad characters.

These instructions more or less remained on paper and the police of Delhi visibly failed to rise to the occasion as a professional force. The brutal killing of revered leader like Smt. Gandhi, Prime Minister of India, certainly wounded the feelings of every Indian. That was legitimate. Individually, every policeman in Delhi had justification to feel sorry and even mentally injured on such an occasion and the suddenness of the news and particularly when two men drawn from the disciplined force were the authors of the crime there was scope for being overtaken by a stunning effect.

But if the Delhi Police had the requisite professional approach and training, the temporary obsession brought about by the sudden event could not continue to colour and cloud the vision as also the thought process and conscience of the police force. The call of duty should have helped the police force to revive from the temporary sunning effect and the instructions issued in the manner indicated should have been scrupulously followed.

There is abundant evidence before the Commission that the Police on the whole did not behave properly and failed to act as a professional force. Telephone No. 100 which is meant for notifying for police assistance did not respond at all during that period. The police stations when contacted on telephone ordinarily did not respond and if there was any response it was a plea of inability to assist.

The behaviour of most policemen was shabby in the sense that they allowed people to be killed, houses to be burnt, property to be looted, ladies to be dragged and misbehaved with in their very presence. Their plea was that they were a few and could not meet the unruly armed mob usually of hundreds or thousands. Some senior police officers had taken the stand that the community was in frenzy and to meet the cruel mob greater strength of force was necessary.

Obviously, the police could not expect that their number had to be equal to that of the miscreants. A professional police force by its expertise, experience and training was expected to meet any challenge and was not to seek cover under an umbrella of excuses based upon instructions in archaic Police Rules. Has any hero been heard of opening his Scriptures when he suddenly meets a challenge to his life ?

Though senior police officers have denied that there was any active support or association of the police with the crowds and the Commission does not have any definite material against named policemen of having played such role, it is difficult to reject the allegation as baseless. The Commission is of the view that detailed investigation/inquiry should be undertaken to find out whether some policemen of the Delhi Administration had not behaved that way. The then Lt. Governor Gavai in his evidence before the Commission has stated :

“The flow of reports of actual happenings was not coming. Lt. Governor’s channel for information was through the establishment of the Commissioner of Police.”

Police Commissioner Tandon stated to the Commission :

“Evidently the SHOs were not feeding the district police control room from where the police control room was intended to be fed.... It would be wrong to say that the police administration had collapsed during that period. However, there was failure in certain areas where local officers did not rise to the occasion.... Areas from where killings had taken place on large scale were identified as Trilokpuri in P.S. Kalyanpuri, some other police stations in East Delhi such as Nandnagri; Palam Village in P.S. Delhi Cantt; Srinivaspuri; Mangolpuri and Sultanpuri in West Distt; Jahangirpuri in North District. There may be some more areas details of which I have to check up.”

He even specified the names of some of the delinquent police officers. According to him the SHO of Kalyanpuri had to be suspended and taken into custody along with some of his subordinates and a handful of other officers of other police stations had to be transferred and inquiries were instituted against them.

According to the Police Commissioner Tandon, where the local police officers behaved properly the trouble had been minimum or avoided depending upon the initiative, courage and leadership of the local officers. Where the local officer lacked this or failed to rise to the occasion, the trouble spread and life and property were lost.

Police Commissioner Tandon exhibited poor knowledge of many aspects. He failed to indicate what exactly should have been the strength for the Police in Delhi. He did not know the strength for the jhuggi dwellers even by estimate or their percentage to the total population: nor was he aware of the total number of fire stations in the Union Territory of Delhi.

According to his records the total number of deaths during the riots in Delhi was less than a thousand-to be precise, 970, while Government has put the figure well over 2300. It is a fact that Police Commissioner Tandon had been transferred out of Delhi on November 11, 1984, but by then he should have been able to get a near to actual figure of deaths if his administration had been functioning properly.

Shri Ved Marwah, the present Police Commissioner has said :

"I have found out that during the November 1984 riots information available with the local police did not flow into the police control room. Absence of such information caused failure of proper assessment to be made at the Headquarters and on account of want of proper feedback, steps which could have been taken to control further degeneration of the situation could not be taken.

Such instances were quite a good number. If timely information had been received the evaluation made at the Headquarters would have certainly been different. Though I am not in a position to say whether the situation could have been brought under control in the background of such information being available, it is certainly a fact that a different outlook would have developed to meet the situation.

Additional Commissioner Jatav has told the Commission that he got the information of killings in Kalyanpuri only at 7 p.m. on November 2, 1984 and this he checked from his records and stated. Kalyanpuri is 12 km away from the Police Headquarters. As already mentioned, more than 200 people died in the area and on his own showing these took place during the night of November 1.

Such a brutal incident taking place within a distance of 12 km. from the Headquarters not to be known to the Addl. Commissioner of the area for well over 16-18 hours easily gives the impression that the police administration had virtually become ineffective during that period.

The version of the officer that higher officers were taking rounds has become not acceptable in view of his statement that during that disturbed condition the information from Kalyanpuri area could not travel to the police headquarters. There are many pockets in the city inhabited by more of Sikhs with which no attempt was made to keep contact either by taking rounds or otherwise. Jatav has assessed that 25% of Delhi Police personnel became indifferent.

Addl. Commissioner Kaul has stated to the Commission :

"There was a break-down of communication particularly between the outlying areas of the Union Territory with the police headquarters. This was so for the first three days namely 31-10-84 and 1st and 2nd November, 1984.

He has also stated :

"One incident was noticed in my area namely Delhi Cantt. where an incident of a serious nature was not even brought to the notice of the DCP (South) for three days, and it was only through some non-police sources that the DCP, South managed to get hold of information and then began to inquire into the event."

Shri R.S. Sethi, the then District Magistrate of Delhi and now Commissioner of Lands, DDA, told the Commission :

"My impression is that the senior police officers were anxious to maintain law and order at any cost. They were, however, not fed with appropriate and timely information by the police officers in the different areas in the field. I am prepared to substantiate this impression of mine by the facts. For instance, in Trilokpuri Killings were about 260.

The Commissioner of Police in the meeting called by the Lt. Governor on the basis of information collected by him, disclosed this figure to be between 20 and 30. Same was the situation in Palam Colony. As against actual deaths of 300, the police statement disclosed deaths of about 30-40 persons.

I moved from house to house in Palam Colony along with Mr. Ashok Pradhan who was helping in relief operations. I saw charred dead bodies and otherwise also several dead bodies lying here and there. I saw the same situation in Trilokpuri area. My own impression is that the local police did not at all act effectively in controlling the situation."

In answering the question of the Commission as to whether it was a case of positive negligence or one of callousness or inattention, Shri Sethi stated :

"I do not think it is a case of open participation but to my mind it seems to be a case where under pressure they remained away from duty and ceased to be effective with a few exceptions. Some SHOs were very effective and dutiful. About 25 to 30% of these SHOs were found effective. All others remained indifferent and did not come up to the mark.

The Commission wanted a clarification as to the meaning of 'pressure' and Shri Sethi stated:

"I refer to local political pressure but in the absence of any positive material I cannot name the source of pressure. It is, however, a fact that the police remained ineffective as if something had happened to keep them away from their duty."

Shri Sethi further said :

"My impression is that had the police done the appropriate planning and on 31-10-84 apprehended that the situation may turn worse, by themselves with a little assistance and moral support from the Army they would have been able to maintain law and order effectively and nothing to that extent would have happened."

In the opinion of the Commission this is reasonable assessment of the situation. Police Commissioner Tandon should not have felt satisfied that by promulgation of prohibitory order under section 144, Cr. P.C. the situation would be brought under effective control. More of useful planning should have

been undertaken and the line of action from the afternoon or at least the night of October 31, 1984 should have been different.

Some higher police officers should have been deputed to move about in different areas to activise the local police and to instil in them the dual sense of duty and confidence. If the Army had to be called that matter should not have been deferred till the next morning. Killing of Smt. Gandhi was not a small matter and everyone should have reasonably apprehended serious repercussions.

The then Lt. Governor did have such apprehensions as told by him. Since Government had already alerted the Army, the Lt. Governor and the Police Commissioner should have called in the Army and asked them to patrol during the 31st evening and night in the sensitive localities. If at the right time police action had started with the number of the police force available the entire situation would have remained under control.

Police Commissioner Tandon's own statement is the best material to rely upon for such conclusion. He has said that wherever the local police behaved, the situation did not go bad at all or very much. It is not the stand of Shri Tandon that wherever the police are said to have behaved like a disciplined force, there was an adequate force available.

Therefore, inadequacy of police personnel does not seem to be the real cause. On the other hand, Shri Sethi's statement that the police became indifferent appears to the real one. As has been pointed out in the book entitled "Law and Order Reconsidered"(Praeger Publishers, New York) :

"Civil order, like a fire, can rapidly grow out of control unless it is dealt with quickly in the very early stage. During the first minute of a disorder, a hundred well trained and commanded policemen can often prove more important and effective than one thousand men a few hours later."

Several riot-victims alleged in their affidavits that while the police made no attempt to drive away the riotous mobs moving about in the streets fully armed, they made a systematic attempt to take away the licensed arms available with the Sikhs.

Though there may have been some embellishment in the description of the manner in which the police took away the fire arms, the Commission is satisfied that fire arms had been taken away from the Sikhs during that period. Allegations of this type have been investigated in many instances and the conclusion is in line with the allegation.

The police had taken the stand that the arms were taken away as there was apprehension of Sikhs using the arms for killing the people in the mob who were attacking them and damaging their property, and in case such incidents happened, the mobs would get more infuriated and the riots would become more widespread. It has also been their stand that there had been some

instances of killing by the Sikhs and to minimise armed confrontation this had been done.

Undoubtedly, overawed by the riotous mobs moving in the streets and endangering the safety of person and property of people belonging to the Sikh community, in certain areas Sikhs had formed themselves into groups for self-defence. Law permits use of even fire arms in some eventualities in self-defence of person and property. If the police were able to control the riotous mob certainly they were entitled in a given situation to temporarily take away the licensed fire arms with a view to easing the situation.

But when riotous mobs could not be controlled - and this is the admitted position - in the face of the law authorising the right of private defence to be exercised with the aid of fire arms, if necessary and justified, it was not at all proper on the part of the police to withdraw the licensed fire arms from some of the people belonging to the group which was being attacked and thus expose the weaker group to greater risk in the hands of rioters. The Commission is not in a position to approve of this conduct on the part of the police.

As an illustrative instance of humane attitude of some of the police officers during the riots a reference may be made to the particulars in the affidavits of Smt. Joginder Kaur (no. 2450). She was a resident of Palam Colony, one of the worst affected areas during the riots. She has stated :

"On November 3, 1984 when we were hiding in the bushes the mob came towards that side. They had torches and lights with them. They spotted us in the bushes and caught hold of us. I told them that we were Hindus but they saw the turban marks on the heads of my sons. They said "you are Saddar's. You have got your hair cut just now."

The mob started beating both of my sons. At this I said in Hindi 'We are Hindus, Do no beat us.' There upon one person out of the mob came out and said, "Listen to them carefully. Don't say them anything."

He asked the other men to take us to the Mandir and keep us there.

When we were being taken to the Mandir some people tried to hit my sons with sword and iron rods but I came forward and thus rescued my sons. The sword hit my leg which started bleeding profusely. In the Mandir, to save us, the Pujari sent us inside the Mandir and locked the gate from outside.

The Pujari asked us to sit there and that he will send us to Gurdwara when the curfew is lifted. This was the Shivmandir of Sagarpur. Outside the Mandir the mob was shouting at Pujari and threatened to break open the lock. They also tried to break open the lock. This continued for a long time and in the meantime many more persons joined the mob.

Then somebody shouted that the Mandir be set on fire if the Pujari did not open the lock. When they poured kerosene oil from the grill of the Mandir and

tried to set it on fire, I dashed my forehead at the feet of Devi and prayed Her to appear and save us. My sons started weeping loudly along with me. At that time one person who had wrapped a blanket around himself came forward and asked the mob not to set the Mandir on fire.

That man asked, "Sister, where have you to go? I told him that we had to go to Maharani Bagh. He said that he is also from that side and he would save us. But I did not believe him. He told me that he has the key of the back door and that he is a Police Inspector and has also a revolver with him. He removed his blanket and showed me the revolver. He was wearing a police uniform. He showed me his identity card also and upon this I believed him.

Then he made an announcement at the loudspeaker of the Mandir, Extremists have arrived towards the Railway line. Run for your lives." Many from the mob ran towards the line and he made us come out from the back gate.

He called 5-6 more persons and instructed them that we have to be saved. Hardly had he taken us for some distance that the mob returned and surrounded us. Some people in the mob enquired from the Police Inspector that why he was taking the two Sardar children and thereby putting them to a loss of Rs. 500 each. The mob told the Inspector that they would not allow the Sardar children to go.

At this the Inspector drew out his revolver and one more man drew out his revolver and threatened the mob to shoot anybody who will come forward. The mob retreated and they took us out from that place. In the way, two persons accompanying the Inspector also removed their blankets. Two of them were in police uniforms. One of them was a Police Inspector and he told me that he is a Police Inspector. They accompanied us up to and left us at Gurdwara Sadar Cantt."

This indeed is one of instances where one member of the police force rose to the occasion and rescued the lives of three persons of the Sikh community.

The Commission made a serious attempt to identify this particular officer but in the absence of any definite clue, it became difficult to locate him. One of the reasons why this was attempted is to find out why a few of these police officers had covered themselves with blankets in the manner described.

Though it has not been suggested-and much less relied upon as a contention-the Commission intended to discover if the reason for such covering up was to conceal police identity on account of the situation that they were a few in numbers and had become apprehensive of their own security in the presence of the riotous mobs.

There is evidence which the Commission cannot ignore that on several occasions when fire tenders started moving to places of arson on receiving intimation, the mobs blocked the passage and held them up or forced them to return. On several occasions this was done in the presence of the police. It is well-known that fire tenders have precedence of movement on the roads for

they move to answer an emergency, yet the police did not attempt to clear the way.

Several instances have come to be narrated where police personnel in uniform were found marching behind, or mingled in, the crowd. Since they did not make any attempt to stop the mob from indulging in criminal acts, an inference has been drawn that they were part of the mob and had the common intention and purpose. Some instances, though few in number, have also been noticed where policemen in uniform have participated in looting.

There is some force in the allegation of DSGMC that the police had no business to change the method of recovery of stolen goods. Ordinarily, the place where stolen articles are stored—be it a house or some other place—is searched, recoveries of identified articles are made, on the basis of such recoveries prosecution is launched and the possession of identified stolen property constitutes good evidence for the offence punishable under sections 411 and 412, IPC and provides a presumptive link for the offence. During the riots, the police instead of following this known method, adopted a novel one of inviting the culprits to pile up the stolen articles in the open near the houses from where the removal had been made. By this process, the best evidence linking the accused with the offence vanished. Such of the articles which were returned belonged to several persons and were mixed up. Very often, as alleged, they were taken away from there by others and even by policemen. Since the Commission has not been told the justification of the adoption of this novel and uncanny procedure, the suggestion of the victims that this procedure helped misappropriation of some of the articles cannot be ruled out. The Commission has, however, no intention to act on surmises and leaves this aspect to be taken up in the inquiry against the police officers as recommended by it.

Surprisingly the Delhi Administration has supported the action of the police and seriously attempted to extend cover for the lapses. In the written submissions on behalf of the Administration reliance has been placed on different provisions of the Punjab Police Rules, 1934, which perhaps have been kept in force under s. 149(1) of the Delhi Police Act, 1978. The Punjab Police Rules were made at a time when the country was under shackles of foreign domination. The role of the police under the foreign ruler was meant to be different. The long title of the 1978 Police Act says that it was an Act to amend and consolidate the law relating to the regulation of the police in the Union Territory of Delhi. The entire position should have been reviewed when a revamping was attempted by introduction of a new law and if the Punjab Rules were found insufficient, inadequate or archaic to meet the demands of times, proper rules should have been made. There was no necessity or justification to continue those antiquated Rules under the new Act. Want of a riot squad in the Delhi Police has also been advanced as a justification for the police conduct. The Commission notices with disapproval such a stand by the Administration. Perhaps that could have been advanced as a justification on behalf of Delhi Police if it was being indicated by the Administration but the Administration should not take that stand. By October 1984 riots had become too frequent in India and under the excuse or cover of every available plea

based upon economic, religious, political and social issues society was being victimised by riots now and then.

Delhi and neighbouring places had seen riots on more than one occasion. It is difficult for the Commission to appreciate that the Delhi Administration had not thought it appropriate to equip its Police with one or more riot squads.

The Commission also is not in a position to appreciate the stand of the Delhi Administration that what "happened during 31st October to 3rd November, 1984 was not a problem of maintaining law and order but reflected the sudden and spontaneous national outburst culminating from the vacuum caused by an unprecedented and never Thought of murder of the Prime Minister of India".

As already found, what happened was certainly unprecedented and possibly beyond the range of advance comprehension. The stand that it was a spontaneous national outburst, which may be a fact, cannot be used as a ground to justify the behaviour of the Delhi Police. The spontaneous national outburst (reiterating the phrase of the Delhi Administration) did not bring about calamity of the type that happened in Delhi in other parts of the country.

There are several places outside Punjab where the proportion of the Sikh population to the total local population is higher than at Delhi (here it being 6.33%). There are also other places where the Sikh population is sizeable yet social tranquillity was not disturbed in those places the way it was at Delhi mainly on account of effective control being exercised by the police who were in charge of maintaining law and order. It is a fact that for some time on October 31, 1984 there was a vacuum in the office of Prime Minister. That again is no ground for the Delhi Administration to rely upon.

Even if there was a vacuum in the office of the Prime Minister, the Delhi Administration had no difficulty in functioning and a vacuum in the office of the Prime Minister was no justification of the police to misbehave (failure to behave according to the prescribed standards is a form of misbehaviour). The Delhi Administration has again contended that the police is essentially a civil force; its weaponry, exercise and control are meant to meet the situation arising out of small disturbances. The Delhi Police were already 30,000 strong as against the total population of around 65 lakhs.

The proportion works out to one policeman for 200 people. This certainly cannot be said to be a totally inadequate police force though the Commission agrees that the strength should have been increased. The failure of the Administration to provide police with up-to-date equipment and make it an effective team of professional police men cannot again be advanced as a justifying ground for the police conduct. One's own failure or lapse is never advanced, much less accepted, as a justifying excuse for a wrong arising out of the same.

In its written submissions the Delhi Administration has also taken the stand that the Sikhs by their conduct of celebrating the death of Smt. Gandhi created a provocative situation which led to the riots.

The Delhi Administration and the police certainly knew the position that if the conduct of the Sikhs was wrong they could be independently dealt with by the police and all those persons who were celebrating the death of Smt. Gandhi should have been dealt with under the criminal law of the land if such conduct was offensive. One delinquency is no justification for another and in a larger proportion. The Commission, therefore, is not in a position to accept the stand of the Delhi Administration on this score taken in the written submissions.

It is to be remembered that the Delhi Administration took no positive stand in regard to the police conduct when called upon to do so. It led no evidence and even did not place any document before the Commission unless called for. In the written submissions certain aspects have been assumed though the relevant evidence has not been placed before the Commission. This approach to the matter certainly is not tenable.

The Commission has noticed that the Delhi Police did not have an effective intelligence wing which could have fed the authorities at the top with what should be apprehended on the basis of the existing situation and intelligence actually collected.

Delhi, apart from being the capital of the country, was the place of the killing of Smt. Gandhi. The dead body of the beloved leader was seen lying in state. The reaction of the common man was likely to be of greater intensity here. Police Intelligence should have foreseen this and advised greater preparedness.

It is in evidence before the Commission that administrative action was initiated against some of the delinquent police officers. Shri Ved Marwah, the then Addl. Commissioner of Police was also asked to inquire into the lapses of police officers during the riots. Shri Marwah has told the Commission :

“I was handling an inquiry into the lapses of police officers during the November 1984 riots. I had proceeded with the inquiry to a large extent but some important witnesses had yet to be examined, including the then Commissioner of Police. I had been directed to make this administrative inquiry by the Commissioner of Police but he later directed that the inquiry may not proceed in view of the fact that a judicial inquiry into the matter was being undertaken. That is how the matter has not proceeded further.”

He has further stated :

“As I have just stated, I never came to the final stages of the inquiry but in course of inquiry I had come across instances where there was *prima facie* material to show lapses on the part of some police officers. Such lapses appeared in respect of DCPs, ACPs as also SHOs and officers of even lower ranks.”

At one stage the Commission was inclined to go into the lapses, issue notices under section 8 B of the Commissions of Inquiry Act and record findings of lapses, but in view of the evidence later available that the lapses were rampant and several officers of different ranks would be involved if such an inquiry is undertaken, the Commission changed its approach to the matter.

Such an inquiry would have protracted the proceedings and unusual delay in submission of the Report on the issues referred to the Commission was not considered expedient. Again, the Commission has taken into consideration the position that even if a finding under section 8B of the Act is given, it would not bring about suitable punishment for the delinquency that may be found and further administrative or criminal action would be necessary for such purpose. Keeping all these aspects in view, the Commission has not thought it proper to name anyone as a delinquent.

This, however, does not mean that the Commission is of the view that the conduct of the delinquent police officers should not be inquired into. On the other hand, the Commission is of definite opinion that a proper inquiry should be undertaken.

Such a probe is in the interest of the police as a force as also the Administration. The black sheep can be identified and suitably dealt with. The dutiful officers should be commended. The defects can be found out and remedied. The morale of the police as a disciplined and professional force can be streamlined on the basis of the result of the inquiry.

On November 25, 1984, hardly three weeks after the riots, the Marwah Inquiry was set up by the Delhi Administration for findings on :

Identification of incidents of serious failure or negligence, if any, on the part of the individual police officers/men;

Identification of good work, if any, done by individual police officers/men so that they could be suitably rewarded; and

Identification of deficiencies and limitations of manpower and equipment of the police force and for suggestions as to measures to tone up the functioning of the police to meet the challenge in the days to come.

Soon after Shri Marwah, then Additional Commissioner of Police, proceeded with the inquiry, Shri Chander Prakash and Shri Sewa Das, Deputy Commissioners of Police in charge of South and East Delhi respectively during the November riots filed a suit before the Delhi High Court and at their instance by order dated November 25, 1985, in I.A. No. 2246/85 arising out of Suit No. 677/85, the High Court made an order of injunction against Shri Marwah and Shri Jog (Police Commissioner), defendants 1 and 2 in the suit, restraining them from publishing the inquiry report or submitting the same to the Lt. Governor of Delhi or the Union of India for taking any action thereupon against the plaintiffs. No further steps appear to have been taken by the

Administration to get this injunction vacated or varied. A lot of criticism has been advanced in the written arguments of the DSGMC against the Administration of accepting the injunction staying the inquiry by Shri Marwah.

The criticism seems to be justified but with that part of the matter the Commission has indeed no further concern in view of the fact that elsewhere in this Report the Commission intends to recommend another inquiry to be conducted. What is relevant for the purpose of this Report is that two of the Deputy Commissioners of Police were apprehensive that there was likelihood of materials coming out against them if Shri Marwah proceeded with the inquiry and, therefore, they were anxious to rush to the Court and obtain an order of interim injunction.

The inquiry, as the Commission gathers, was not proceeding for other reasons even before the injunction from the High Court came but if the injunction had not been there quite likely some sort of inquiry could have been carried on in view of the fact that Shri Marwah had by then become Commissioner of Police and appeared to be in favour of an inquiry of this type. The tell-tale circumstance which the Commission is prepared to gather from the conduct of these two Deputy Commissioners of Police is that they were afraid of facing the inquiry.

An attempt was made by the Commission to examine Shri Sewa Das and notice had been issued but service could not be effected. The Commission did not think it worthwhile to proceed further in the matter of his examination by it as the Commission proposed recommending a detailed inquiry to be undertaken.

It has been pointed out to the Commission that by way of public interest litigation a writ petition had been filed before the Delhi High Court being CWP No. 2667/84, requesting the High Court to issue directions to the Delhi Administration and the Commissioner of Police to take action for criminal negligence against the guilty, including the two Deputy Commissioners of Police. The High Court had declined to interfere in that matter by order dated October 4, 1985, by relying upon and accepting the statement made by a Joint Secretary of the Delhi Administration to the effect that Shri Marwah had already been appointed to inquire into the matter and the said inquiry was about to be completed and thus there was no necessity for any direction of the type asked for.

So far as the Delhi Administration is concerned, the position, therefore, was that an inquiry had been directed to be conducted by Shri Marwah, the then Addl. Commissioner of Police and that inquiry was being proceeded with involving the conduct of several police officers, including the two named Deputy Commissioners. The questions which Shri Marwah had been asked to examine and report upon clearly accepted delinquency on the part of several police officers and it, therefore, required an inquiry into such delinquent conduct and identification of the officers. Simultaneously it required identification of officer who had been dutiful and had done good work—

apparently with a view to punishing the delinquent and commanding the upright ones.

If the inquiry had been conducted within a time frame, the report on the basis of materials found would have indeed been a revealing one and would have served the purpose for which the inquiry had been directed. While the Delhi Administration had then on its own directed an inquiry into the delinquencies and good conduct of its police officers, the present stand is one of total justification. Nothing apparently has happened in between which could have brought about such a drastic change in the attitude of the Administration.

The inquiry instead of being done by the Commissioner of Police, should be by a higher authority as some aspects of the conduct of the then Commissioner of Police may also have to be looked into. Administrative propriety would not justify his successor commissioner of Police to inquire into the conduct of his predecessor. If the inquiry stated by Shri Marwah had not been stopped, by now some of the delinquencies would have already been found out. Since a lot of time has been lost and a delayed inquiry may not be very effective and useful, the Commission recommends that an inquiry be undertaken without delay and preferably the inquiry be handled by a Committee of two persons—an experienced retired Judge of a High Court and an experienced civilian. A time frame should be prescribed for its working.

6. Action against others

The persons named in the affidavits as perpetrators of the hundreds of inhuman crimes are in great number and may perhaps exceed a couple of thousands on a modest estimate.

Everyone in the riotous mobs indulging in criminal activity would, in the strict sense of law, have liability though there may be a distinction between those directly indulging in overt acts and others who may have no overt acts ascribed to them.

As already noted, the victims are keen that the law breakers be put on trial.

Keeping that aspect in view, it becomes difficult for the Commission while recommending prosecution to be launched, to sit in judgment over the conduct of some and, if necessary, find them guilty by naming them under s. 8B of the Act.

Again, the Commission was impressed by the fact that the people involved were in great number and the task would have been almost an impossible one if the allegations against every named person had to be scanned complying with the requirements of the law.

This has, therefore, been an added consideration weighing with the Commission for desisting from making any assessment of the allegations implicating individuals as either members of the riotous mobs or organizers thereof.

The Commission could not have undertaken an inquisitorial proceeding.

7. Delay in calling in the Army

General A.S. Vaidya, Chief of the Army Staff at the time of the riots has told the Commission that before he had any information from the GOC, Delhi Area, about civil administration alerting the Army of his own accord he had told the GOC that he had his consent and direction to extend necessary assistance immediately as and when asked for, as the General was apprehensive that an emergent situation might arise when he came to learn about Smt. Gandhi being shot by two of her guards.

According to him, by about 10.30 a.m. on October 31, 1984, he had directed a Brigade from Meerut to be moved to Delhi and this Brigade had reached Delhi before midnight of October 31. This Brigade had 1600 fighting officers and jawans.

At Delhi the usual Army strength is one Infantry Brigade, one Artillery Brigade and the available strength of Rajputana Rifles Regimental Training Centre. In his view the total of these three groups would be somewhere between 5500 and 6000 strong.

Maj. Gen. J.S. Jamwal, GOC Delhi Area, has told the Commission that he had at his disposal at the relevant time a full Brigade, a Regimental Centre, an Engineering Regiment, two Regiments of Artillery.

The actual number available was 6100: 3000 jawans were available for field duty and 3100 were used for controlling movements at Teenmurti Bhavan where the body of the late Prime Minister was lying in state and arrangement from Teenmurti Bhavan to Shakti Sthal where Smt. Gandhi was to be cremated.

The statement of Police Commissioner Tandon that adequate Army personnel were not available in Delhi has turned out to be without basis.

There is no reason to disbelieve Gen. Vaidya's statement that by the midnight of October 31, 1984, one Brigade from Meerut was already at Delhi. Thus, at least 5000 fighting Armymen were available by October 31 midnight.

On October 31 itself Shri Rajiv Gandhi after being sworn in as Prime Minister reviewed the situation in Delhi and left instructions that the Army may be alerted, and, if necessary, called in. It is the statement of almost every officer examined by the Commission that the Army had been alerted during the day on October 31, 1984.

Additional Commissioner Kaul has stated:

"The Delhi Police were not in a position to match the challenging task that followed the assassination of Mrs. Gandhi. This was the first time that Delhi Police had to face such a challenge for the entire Union Territory."

Lt. Governor Gavai stated that in the early morning of November 1, he was apprehensive that the situation may worsen and had advised the Commissioner of Police that the Army may be called.

It is at that point of time that the Commissioner of Police wanted a personal assessment to be made of the situation by moving around. This took quite some time.

The withholding of information regarding the incidents happening in the different parts of Delhi by the police officers and inadequacy of briefing at the Police Control Room and in decision - making offices obviously delayed the move of the civil administration in calling in the Army for assistance.

If the Army had been called in the morning of November 1, 1984 -- and by then about 5,000 Army people were at Delhi-- the position would certainly not have been as bad as it turned out to be. 5,000 Army jawans divided into columns and moving into the streets properly armed would not have brought about the death of at least 2,000 people.

The Government as also the Chief of the Army Staff had already given clearance for the Army being called and the delay in taking the decision and making the requisition was of the Delhi Administration — squarely of the Lt. Governor and the Commissioner of Police. And this again is related to the fact that there was no feedback of incidents by the Station House Officers.

8. Allegation against D.T.C.

Allegations were made in several affidavits of the victims that buses were utilised in transporting armed mobs during the riots. The Delhi Transport Corporation owns thousands of buses which are plied on different routes.

The Corporation also utilises private buses on the routes. The allegations particularly relating the University area with reference to events of November 1, 1984, were investigated by the Agency. It examined several drivers and conductors and also scrutinised the records of the Corporation.

According to the Investigating Agency some buses were as a fact used as alleged but the employees had been cautioned not to disclose that fact to the investigating team. The records of the Corporation, the Agency reported, had been suitably touched up.

In this back drop, the Corporation was called upon to produce the records of November 1, 2 and 3, 1984. In response to notice, Shri Prem Prakash, Additional General Manager of the Corporation appeared and was examined. From his evidence it appears that the Corporation has 30 depots of buses spread over Delhi and it has the Central Communication Centre close to Pragati Maidan.

At this centre, a record showing noting's of minute to minute development relating to its buses while out of the depots is maintained. Reliance was placed on this record in support of the Corporation's stand that its buses were not used for transporting rioters as no such information is recorded.

A list of the vehicles taken out on the routes has been made available for inspection from which it appears that in the morning of November 1, 1984, most of the buses went out on their usual routes. Many were taken off the routes in the afternoon and evening. On the 2nd, buses were not put on the routes.

Though the Corporation does not admit use of its buses for movement of rioters, the Commission is prepared to accept the material collected by the Investigating Agency and its conclusion that the route buses were forcibly diverted by the mobs to facilitate their movements and as and when the drivers found any opportunity to escape, they returned to the depot.

There is no material to hold that the corporation has extended any assistance to the rioters by allowing its buses to transport the rioters.

KANPUR

9. Incidents

There is a distinction in the reference to the Commission so far as the events of Delhi and events of Kanpur and Bokaro are concerned. In regard to Delhi the incidents are said to be "organized violence" whereas in regard to Kanpur and Bokaro - Chas what happened during the riots has been described as "disturbances".

While all disturbances may not be riots, all riots would usually include disturbances. What happened during October / November 1984 at Kanpur and Bokaro-Chas is certainly riot. All incidents at Kanpur and Bokaro-Chas were confined to 31st October and 1st November.

The allegation of organised violence as such is not there in regard to the incidents at Bokaro-Chas though so far as the incidents at Kanpur are concerned; such an allegation has been raised. The Commission is bound by the terms of reference.

It would not be open to it to find out whether the disturbances riots at Kanpur and Bokaro-Chas were also organised. In terms of the reference the question whether the violence at Kanpur was organised, however, would not fall for examination.

On behalf of the State of Uttar Pardesh it has been contended that the terms of reference do not require the Commission to report about the lapse, if any, committed by any particular officer though the extent of the damage may be a relevant aspect for consideration.

The Commission is inclined to hold that it has jurisdiction to act under section 8B of the Commission of Inquiry Act even within the frame of the reference as it stands. However, whether such action should be taken is another matter when the Commission issued notification calling for affidavits from persons in the known of events relating to the October / November 1984 riots, it was open to officers in the Kanpur District Administration or even the U. P. State Administration to file affidavits disclosing the facts.

No affidavits were, however, filed. In all 675 affidavits were received out of which four were rejected being out of time or being in regard to events outside the Kanpur city limits.

Several groups asked for leave of the Commission to be represented and as already mentioned in a different part of the Report, permission was accorded. The State Government did not disclose any positive stand and stated that the Government would only deny any allegations implicating the officers in any manner in the riots.

It also stated that the State Administration would contend that all that was legitimately within its power and could be done had been done to contain the riots and bring about normalcy. That is why normal situation was restored within a brief period of 24 hours and by the evening of November, 1, 1984, normally prevailed again in Kanpur were examined by the Commission -- mostly at the instance of the victims and a few at the instance of non-Sikhs groups.

There is no dispute that 127 Sikhs and 8 non-Sikhs died at Kanpur during the riots. And all these deaths were between the night of 31st October and late at night of 1st November. Though there was an allegation of a killing on 2nd November, it has been verified and the incident appears to have taken place during the night of 1st November. The first incident as appears from the police log book is around 2.30 p.m. on 31st October.

As in Delhi, the initial occurrences were of spontaneous type reaction of the people at large against Sikhs as a whole on the basis that two of their community had injured Smt. Gandhi by bullets. Information of the Prime Minister having been injured seems to have reached Kanpur and become fairly known by 11 in the morning.

From the afternoon as a result of reaction to that situation incidents started taking place. It is a fact that by evening time the incidents had spread into different parts of the city and incoming reports thereof had become very frequent. From the evening of 31st October cases of arson became quite common. The attack as in Delhi was -----

- rioting had started in the previous night, viz., 31st October and there is no acceptable evidence to hold that meetings had also been held and call had been given before the evening of 31st October for taking revenge. Information of Smt. Gandhi's passing away was first wildly circulated at Kanpur through the news media of All India Radio by evening time.

It is this news that brought about a transformation in the modality of the attacks. Until that time the nature of assault or action taken against the Sikhs was not a serious type but once the Prime Minister was announced to have succumbed to her injuries, the nature of attack both on property and person changed. Hundreds of vehicles were burnt, Sikh employees returning from Government offices or industrial units after duty shifts were assaulted and badly beaten up.

During the night, apart from the Gurdwaras, private houses were also looted and burnt and physical assault of a grave type started. It is a fact - and ample evidence was placed before the Commission that the composition of the mobs and the manner of attack and behaviour of the crowds were almost of the same type as in Delhi. Kanpur is a city with a population of about 30 lakhs.

It is the biggest city of U.P. and is very much industrialised. A considerable part of its population is of the industrial labour class and there has been pressure on accommodation. A lot of jhuggis and jhopris have come up where

the people belonging to the economically backward class reside and these are spread over in many parts of the city.

There is material that initially hoodlums and small groups, each consisting of 40 to 50 people, started pressuring Sikh shop owners and office keepers to close down their establishments. Where they yielded there was not much of scope for trouble. Where, however, there was any resistance, physical force was applied to enforce closure. Towards evening the ratio of hoodlums in the mobs dwindled and residents from jhuggis and jhopris joined. Smt. Gandhi's death was not mourned on party basis.

Every Indian, including most of the Sikhs, was genuinely sorry for what happened. Some people in the Congress Party at the lower level as in Delhi either genuinely felt more hurt and aggrieved than others or for reasons best known to them, wanted an exhibition of that type of reaction.

Such people did join the riotous mobs. There is allegation that at some places they even led them. Though the Commission is not called upon to examine the question of organised violence, as already mentioned, there is an allegation on behalf of the victims in regard to it and the Commission would like to regard its findings on this score in regards to incidents at Delhi and hold that neither the party nor any particular party man holding public office had organised or helped the rioters. It is, however, a fact as disclosed in evidence that several of the party men at the loose end had participated in the riots. For the reasons indicated while dealing with this aspect in regard to the Delhi riots the Commission is of the view that criminal overt acts or abetment committed by them would be available to be tried as criminal charges and since the Commission recommended and the State of U.P. has already set up a Committee for reviewing prosecutions, the Commission would not make any positive statement about those people who have participated in the riots. That would be a matter for the Court to determine and the Commission has no intention to prejudice the trial.

As already stated 127 Sikhs lost their lives during the riots. At one stage the victims claimed that the number of persons who died was more and the Commission asked them to substantiate their claim but no evidence has come. During the oral submissions made on behalf of the Kanpur Riots Inquiry Co-ordination Committee the number disclosed by the State Government was not seriously disputed. From the disclosure made by the Railway Administration some deaths in trains were noticed. But as it appears, such deaths were not within the Kanpur city jurisdiction. The Commission has, therefore, no option but to proceed on the footing that the total deaths of the Sikhs during the October/November 1984 riots at Kanpur were 127.

Kanpur city has 31 police stations and 94 police outposts. Ordinarily, every police station has a Station House Officer/Station Officer, 4-5 Sub-Inspectors, around 3 Head Constables and 20-25 Constables. Some police stations are treated as big ones where ordinarily 15-20 rifles or muskets are provided. Of thereon any given time 1/3 is on duty on the buses that during a day anyone is expected to work for 8 hours. It is the case of the State of U.P. that Smt. Gandhi was due to visit Allahabad on 2nd November, 1984, and for providing

security during the Prime Minister's visit to Allahabad----- officers with their men had been deputed there ----- from 29th October-----of a workman. A large police force including PAC contingents had been deployed to maintain law and order in that area. Of the remaining police force only 1/3 was available to answer the call of duty. It is contended that ordinarily the regular police force was in position to contain any situation that arose but a very unprecedented and difficult-to-comprehend situation developed at Kanpur and against the mobilised force of the people, particularly the trouble makers, the small number of police-men did not appear to be adequate.

In Kanpur the following areas have Sikh concentration: Govindnagar, Kidwainagar, Gumti No.5,Ratanlal Nagar, Ranjit Nagar, Pandu Nagar, P-Road, Rajinder Nagar and Daboli. According to the District Administration, since these areas have Sikh concentration and riot in these areas involved great risk, police had instructed to keep an eye on these areas. In the absence of adequate police force it did not become possible to provide protection in small pocket. The District Administration contended that in this background the riots were more frequent in small pockets, the incidents were many and these were mostly in these areas. Factually this position is not correct. Gumti No. 5 is one of the most affected areas. Similarly, there are some more areas out of the places named above where a lot of incidents took place.

The victims have accepted the position that the riotous situation continued for about 36 hours at Kanpur, being from the evening of 31st October till the morning of 2nd November. The incidents as claimed by the victims during these 36 hours are not at all disputed by the State Government of the Kapur District Administration, except in regard to allegations of rape and certain other minor aspects.

According the counsel for the riot victims, on account of appropriate and timely preventive steps having been taken, no widespread disturbances took places in cities like Allahabad, Agra, Varanasi, Gorakhpur, Meerut and Bareilly located in the state of Utar Pardesh. Counsel for the State has disputed this position as also the comparative basis.

It was contended before the Commission that the cities referred to above were of about 1/5 size of Kanpur. The Sikh population living in these cities was small, while at Kanpur their number was about 1.5 lakhs, in each of these cities it did not exceed 15,000 to 20,000 at the most. None of these cities is as industrialised as Kanpur. Nor are these cities as spread out as Kanpur. Kanpur City is a full district and Kanpur Dehat is another independent district consisting of the rural areas but its administrative headquarters is still located within the city of Kanpur.

It is a fact that not much of riotous situation developed within the Dehat District. It is also a fact that in all these cities as also in Kanpur Dehat area there has been some sort of trouble during the period though the disturbances were not as widespread as at Kanpur.

The Commission is of the view that the stand taken by the Government of Uttar Pardesh is correct and merely on a comparative basis of the situation arising in these towns and Kanpur a conclusion would not follow that the riotous situation at Kanpur was on account of negligence and incompetence as also deliberate anti-Sikh stance of the district administration of Kanpur.

According to the Government records made available in the answer to the interrogatories, it appears that the Home Secretary of the State Government altered the district administration in the morning of 31st October against possibility of untoward situations developing on account of Smt. Gandhi having been injured by security guard's bullets.

Around 11a.m. on 31st October the District Magistrate, the Senior Supdt. Of Police, Supdt. Of Police, City, and the Addl. District Magistrate met to chalk out steps to be taken to meet the situation that might arise. They decided to impose prohibitory orders under S. 144, Cr. P.C. immediately but in their opinion reference to Smt. Gandhi's condition as a ground for imposition of prohibitory orders did not look appropriate.

Therefore, the prohibitory order was grounded upon the labour trouble which already existed for the last two days in the industrial area of the city. These officers along with the police officers and some other Government officers again met at 2 p.m. at Kotwali to review the situation. It was decided to alert the police again and the police were asked to keep a close eye on the situation and have intensive patrolling.

According to the District Administration, the District Magistrate kept on moving from place to place throughout the night of 31st October in order to ensure that the situation got and remained contained. They held a meeting again at 4 a.m. and an assessment of the situation was made which indicated that the situation had improved.

While the holding of the meetings has not been denied on behalf of the victims it has been contended that the situation had not improved at all during the night of 31st October. Between midnight and morning there were 24 cases of arson and between 6 and 10:30 in the morning of 1st November there were as many as 164 cases of arson.

These figures have been taken from the records of the Fire Brigade establishment of the State Government and are not in dispute. The Commission accepts the stand of the victims that there was no abatement of the riotous activity during the night of 31st October.

It is also quite possible, and the Commission is prepared to accept, that apart from the 188 incidents of arson till 10:30 a.m. of 1st November, there could have been several other small incidents where the Fire Brigare authorities might not have been contacted.

A tense situation had developed; security both of person and property had come to be in a state of jeopardy and contacting the Fire Brigade and waiting for its response may not have been possible in every case.

The genuineness the entries in the Log Book which has been produced from the police control room was challenged on behalf of the victims. The Commission had to refer to several entries in the Log Book. There is an official presumption of correctness attached to such entries.

The manner in which entries have been made in the Log Book and the contents thereof when cross-checked with reference to entries in other documents, lend support to the genuineness of the entries in the Log Book. There is no clear material on the basis of which the Commission can dislodge the presumption of correctness and hold that spurious entries have been made in the Log Book.

Curfew had not been imposed in the city till the morning of 1st November. Notwithstanding the imposition of prohibitory orders under S. 144,Cr. P. C., the riotous mobs freely moved during the afternoon, evening as also night of 31st October.

The imposition of curfew in the morning brought not much of impact on the situation. Prohibitory orders under S. 144, Cr. P.C. Or curfew can be effective only when enforced. The Commission is satisfied on the basis of the evidence that neither the prohibitory orders under S. 144, Cr. P. C., nor curfew was strictly enforced and, therefore, neither of these worked as an impediment against the riots.

The Commission has noticed the fact that some prosecutions are pending involving charge under S. 188, I.P.C. for violating the prohibitory orders. They are a few and are perhaps related to certain areas where the police did attempt to enforce these orders.

The plea of inadequacy of the strength of the police advanced by the State during the inquiry and particularly while cross-examining the deponents on the side of the victims perhaps is not wholly wrong. It is a fact that quite a sizable part of the police force had gone to Allahabad and till almost noon time of 31st October some local police as also the PAC contingents were keeping guard in the Factory Area.

It is the case of the District Administration that when it was alerted by the State Home Secretary in the morning of 31st October, they brought about a settlement of the labour dispute, withdrew the police and the PAC contingent from the factory area for deployment within the city to meet the apprehended situation.

Conceding that the police force available in the city area was inadequate and the requisition for additional force had not been answered until late at night on 31st October, attempt should have been made for calling the Army on the 31st itself and there was no necessity to wait till 9 a.m. of 1st November.

The Commission has examined Brig. R. K. Kohli who was Station Commander at Kanpur at the relevant time. He has stated that on 31st October the availability of officers and men at Kanpur was: 65 officers, 159 JCOs and 2366 other ranks. He received the written request from the Distt. Magistrate at 9:35 a. m on 1st November 1984 and the Army moved into the city by 11 a. m.

In fact, the very first column had moved within 10 minutes of the request and in the course of every half an hour one after the other new columns moved in.

By afternoon of 1st November, 7 columns were in the city. By evening another column was sent. If without waiting till the morning of 1st November the assistance of Army had been asked for during the previous day at least for patrolling in the city, which would have been a great deterrent against the build-up of the riots. As Brig. Kohli has said, the Army initially undertook flag march and patrolling duty but as they were not used to every part of the city and required magistrates to issue appropriate requisitions, in the absence of either proper guidance or magistrates, their functioning was impeded.

The Commission, therefore, is of the opinion that in case the Army had been called on 31st October, the situation would not have deteriorated and possibly the incidents that took place in the night of 31st October or on 1st November would not have happened.

The District Magistrate made a wrong assessment of the situation by feeling satisfied that with the incidents taking place in the afternoon, evening and night of 31st October, the situation had eased and nothing more untoward would happen. Obviously the factual position was either ignored or not taken into account.

There was no abatement of the riots. It may be that after the midnight the incidents had become less in number but that could not be a feature to lead to an assessment of that type. Non-enforcement of the prohibitory orders under S. 144, Cr. P. C., delay imposition of curfew and non-enforcement of curfew when imposed and the delay in calling in the Army to stand by the civil administration facilitated the riotous mobs to build-up, operate and bring about the calamity of that proportion in the city.

It may be noted that at several places, such as Calcutta for instance, the Army had been called in on the 31st October itself.

The stand of the Uttar Pradesh Government that more of incidents of grave type took place after the Army had been called in is not fully correct. As the statement of Brig. Kohli shows, the Army took position in different areas by 1 p.m. of 1st November and till 11:15 p.m. that night the Army did not have occasion to face crowd engaged in arson, looting or killing to require resort to firing.

It is only then that two rounds were fired within Kakadeo Police Station as a result of which two rioters died. This firing had followed a magisterial order to disperse the rioter's mob.

It is in evidence that the police did not render appropriate assistance when the riotous mobs attacked the houses, commercial premises and Gurdwaras, looted them and committed arson. There is also allegation that the police officers remained as bystanders when these offences were being committed. In some of the affidavits it was alleged that even police participated in the riots by supporting openly the mobs.

These allegations were investigated through the Commission's Investigating Agency and it had been found that while there is no material to form the basis of a finding that the police had actually participated in the riots, police indifference and becoming onlookers when incidents took place have been found. The Commission had scrutinised the material on which the Investigating Agency has recorded such conclusions and is of the view that the conclusions are proper.

Such conclusion of the Investigating Agency is also supported by the affidavits on record as also the evidence of deponents examined by the Commission. On the basis of such material the Commission records a finding that the police did not act up to expectation and did not behave as a disciplined force.

It is possible that like every other Indian the policemen were also stunned when they got the information of Smt. Gandhi's injuries by gunshot in the hands of security men and her succumbing to these injuries but the discipline of a professional force should have got them out of the stunning effect when the call of duty came and they should have behaved as policemen meant to protect the lives and properties of the citizens. At that point they could not become passive and silent spectators.

10. Consideration of some affidavits

Few incidents may now be dealt with mainly for the purpose of showing that the pattern of incidents was similar to those of Delhi. Smit. Gurjinder Kaur (No. 286) in her affidavit has stated :

"On 1-11-84, in the morning, I along with my husband late S. Balwinder Singh, daughter Ginni aged 15 years, sons Manpreet Singh aged about 12 years and Bhupinder Singh aged 10 years and my employee Karnail Singh was at my house situated at 81, Industrial Estate, Kanpur. In the morning at about 10.30 a.m. about 500 - 600 persons came to my house. They were raising slogans, 'Pradhan Mantri Indira Gandhi Zindabad'.

After breaking the gate they pushed out Fiat car No. UPG 8000 on the road. Then, after breaking the inner gate and getting iron rods etc. in their hands, came to the first floor. Then, they tried to break open the channel gate but could not succeed. Upon this Ahmed shouted that the cement grills be broken.

Then Prem Die-maker, Ahmed, Mishra's tenants and others whose names I do not know but can identify if happened to come before me came in by breaking the cement grills. Ahmed and Prem Die-maker started beating my husband and Karnail Singh with attached and iron rods. They were demanding two lakh of rupees from my husband but the deponent's husband had Rs.70,000 with him which he gave to Ahmed and Prem Die-maker.

In the meantime, while being beaten, Karnail Singh jumped into the adjacent factory No.8. But the owner of that factory Shri Gupta and his wife, on being pressed by the rioters turned Karnail Singh out of their house. Then the rioters beat Karnail Singh with bricks, stones and sticks and threw him in front of our factory. In the meantime they came to the first floor and Ahmed hit my husband Balwinder Singh with a Gamla in his head whereupon he fell down and they started dragging him down.

At this my daughter Ginni tried to save her father by holding the hand of her father but Prem pushed her away. Meanwhile Ahmed compelled the deponent to relieve her of the gold bangles and which she was having on her person. After that they threw the deponent's husband on ground and the deponent car was set on fire and my husband Karnail Singh were thrown in it.

They also threw four to five wooden benches in the fire. The fire raged and my husband and Karnail Singh were burning in it. At this myself and my children screamed and shouted to help my husband and Karnail Singh. Them some amongst the mob and Ahmed and Prem shouted threatening that we shall meet the same fate if we fried (sic).

The deponent and her children got scared and kept silence. Ahmed and Prem had a big hand in getting the deponent's house looted and in getting her husband and employee Karnail Singh killed. On 1-11-84 at about 4 p.m. my brother-in-law S. Amarjit Singh who resides in Govindnagar gave money to

two policemen who then accompanied two Hindu neighbours of his mohalla who came in a tempo to rescue us and then we all went to his house in Govind Nagar.

Smt. Amar Kaur (No.54), resident of Kakadeo area narrates another incident of killing. Her husband had a motor repair workshop in Transport Nagar and two of her sons were having separate business and the third son works in the Indian Air Force. She has stated :

"I became very sad on hearing the assassination of Smt. Indira Gandhi and started weeping. My husband S.Teja Singh was in the workshop in Transport Nagar. Karamjit Singh (son) had a motor repair shop at Gadariyan Purwa, Kanpur and my youngest son Varinder Singh was in IAF and had come on leave and he was at home.

On 1-11-84 at about 3 a.m. my husband S.Teja Singh came home on a bicycle. He was highly upset and sad. My middle son Karamjit Singh did not come. That on 1-11-84 at about 12 noon a police vehicle passed near my house and it was announcing that curfew has been imposed and that nobody should come out.

Sometime before the arrival of this vehicle we were planning to leave for some safer place but on hearing about the imposition of curfew we were satisfied that nothing would happen now.

That on 1-11-84 at about 2 p.m. a mob of 2000 - 2500 shouting anti-Sikh slogans came towards our house. From the window I saw that they were having dandas, lathis, iron-rods, bricks, stones etc. in their hands. They broke the boundary wall of my house and after breaking open the door, started looting.

That when the rioters were breaking my boundary wall I made my daughters and children jump to the house of the neighbour. Both my sons Kulwant Singh and Varinder Singh also ran somewhere to save their lives. In the house only me and my husband were left. When the rioters were looting, they were shouting, 'Be quick, there are lot of things.'

On seeing me the rioters pelted stones at me. I got badly injured and blood started coming out from my head and ears. When my husband S.Teja Singh ran towards the stairs, the rioters hit him with stones and fell down badly injured. Then they beat him so mercilessly that he died. Then they dragged him out and threw him on the burning motorcycle of S.Autar Singh.

In my house there were big almirahs, big boxes, T. V. Fridge, beds, crockery, utensils, jewellery, cash etc. and they were taken away by the rioters. On 2-11-84 at about 5 a.m. my son Karamjit Singh, came along with one Ajay (a rickshaw driver) on a cycle. When Karamjit Singh and Ajay reached near the house some mohalla walas were standing there.

They asked as to who was there. My son replied that it was he, Karamjit. At this the people standing there shouted to kill him as he had come. People ran towards him. Karamjit left his cycle and ran. Dr. Mishra residing at house no. 70/3, Vajay Nagar, Kanpur, hit my son with a spear which hit him in the stomach and he fell down there. Then all the rioters beat him mercilessly and set him ablaze after pouring kerosene oil upon him."

Reference to may be made to the affidavit of Smt. Manjeet Kaur (No. 106). She was a resident of Kakadeo area and has stated :

On 2-11-84 at 5 p.m. my landlord Mrs Bhatia and her sons Bhajana Lal Bhatia and Naresh Bhatia compelled us to leave her house. Myself and my husband begged them that they should allow us to remain there for 2 - 4 days more but they did not agree. Also we apprehended that if we did not leave the house, both the boys would call the goondas and get us killed.

Left with no other option, we started from our house at 7 a.m. to seek refuse elsewhere. When we were passing through A-1 Crossing there were some persons present here and there. They shouted, "Sardar jaa rahe hain, maro, pakro." On hearing this, people ran from all directions and caught my husband and elder son Ravinder Pal and started beating them. After beating them with lathis and stones, both of them were set on fire."

These were certainly incidents of brutal killing and clearly exhibit the animosity in the rioters. Unless there was a total loss of respect for human life, the manner in which the killings have taken place would not have happened.

Reference may be made to the affidavit of Shiv Pyare Tiwari (No. 103) where he has said :

On 31-10-84 at about 7.30 p.m. when I was preparing my food at the shop, about 500 persons started pelting stones at the shop. I got frightened and came out of the shop. After sometime, the mob stopped a truck passing that way, got diesel from it, poured diesel upon the shop and set it on fire.

I watched the burning shop up to 8 p.m. The mob asked me to run away and abused me for serving at the shop of a traitor. They threatened that if I did not run away they would throw me too in the fire. I got scared and took the cycle from the shop and went to the house of my employer.".

The Army not only helped in restoration of law and order but also looked after evacuation, running of Relief Camps and provision of food and clothing. It continued to be in the city till 7 p.m. of 12th November, 1984 and thereafter withdrew to the Cantonment.

11. Assessment of Events

Though there are several incidents of police passivity and indifference, the role of the police in Kanpur is not as bad as that of Delhi. There have been several events where the police rendered assistance when asked for. In the written submissions on behalf of the State reference has been made to 35 incidents where in FIRs help by the police has been admitted and the role of the police has been applauded. Not much of importance can be given to the unsigned FIRs.

But even if no credit is given to these FIR statements, in some of the affidavits and the victims in cross-examination have accepted the position that the police did generally render help. Though the death of 127 Sikhs is accepted, only 57 bodies were sent for post-mortem, 70 bodies were said to have not been traced and the explanation for it is that human bodies whether dead or alive were being burnt.

The State Government has pleaded that on 31st October, 24 arrests had been made while on 1st November, 913 persons were taken into custody and on 2nd November, 1379 people were arrested. It is said that even subsequently after the investigation followed further arrests were made. It is, however, a fact that most of these accused persons were released on bail. In view of the statement made on behalf of the State of U. P. that the bail matters would be looked into by the Committee, it is unnecessary to say anything more about it.

For convenient appreciation, police station-wise maps have been prepared and have been kept on record. Three samples thereof are given in Vol. II Appendix 8 at p. 35 - 37.

Shri Niazi for the riot victims in course of his oral submissions fixed the focal point of attack upon the then District Magistrate, Shri Brijendra, a member of the Indian Administrative Service.

It is not out of place to take note of the fact that at the relevant time Shri B.S. Bedi, an IPS officer belonging to the Sikh community was the Deputy Inspector General of Police posted at Kanpur. He appears to have extended help through the police to some of the riot victims and had given protection to a number of people who had come over to his place.

In these circumstances the Commission has not proposed to examine the role of the police further and would leave this aspect of the matter by recording a finding that better police behaviour was expected and if the police had acted as a professional protector of society, the situation would not have been as bad as it turned out to be.

Reference at this stage may be made to two affidavits, one of Shri Vinod Kumar Sondhi (No. 628) a resident of Pandu Nagar area, and the other of Shri Surjit Singh (no. 566) an engineer. Sondhi is an engineer by profession and was employed in a local Factory, IEL Ltd. Panki, According to him,

around 11.15 a.m. on 1-11-84 as he was walking back to his house, he found that the looters had already entered into the ground floor of his house in which his landlord was residing and they had started looting the property.

He alleged that a contingent of police with City Magistrate Gupta has been standing right in front of the house and had made no attempt to keep the looters out of the house. It was further alleged that Major Suresh Nair with his contingent of armed personnel of the Maratha Regiment also appeared on the scene. Sondhi stated that he first requested the City Magistrate and then Maj. Nair for help in throwing the looters out of the house.

The City Magistrate is said to have refused to extend any help and instead he had told him that Sondhi should feel happy that his life had not been taken away. Maj. Nair is said to have informed him that he was only on a flag march and in the absence of orders he was not in a position to dismount from the vehicle. He further alleged that thereupon he himself entered into the house shouting that the police had come and everyone should run away for life. He states :

"This produced a magical effect and I was able to persuade them to vacate the house. At this stage they had looted all the rooms on the ground, first and second floors and only one bed room was left intact. A few of them were also in the process of burning the house and kerosene oil had also been sprinkled near the wooden doors."

The allegations of Shri Sondhi were got investigated by the Commission's Investigating Agency. The Investigating Agency examined several persons and ultimately came to the conclusion that the allegations against Shri Gupta as also against Maj. Suresh Nair were not justified.

The Commission independently issued notice to Shri Gupta and examined him. He has denied his presence in the area at the time he was alleged to be there and pleaded that he was busy elsewhere to control and regulate the meeting held to mourn the death of Smt. Gandhi that morning.

He was directed by the District Magistrate to pass through the area where Shri Sondhi's house is located with a view to creating a sense of confidence in the people of that area. It is a fact that Shri Sondhi has asked him for guards to be posted at his place and Shri Gupta had told him that such a request could not be entertained in view of the prevailing situation in the city.

Shri Gupta further explained that the area in question not being within his charge, he had no authority to extend Army help for guarding the house of Shri Sondhi. Sondhi claimed a loss of Rs.3 lakhs but stated that he had been compensated to the tune of Rs.2,000. this is a matter which will look into if and when the State Government sets up Committee in terms of recommendation of the Commission to assess the damages.

The Commission is of the view that the allegations against Shri Gupta were without foundation though basically demand for guards and refusal by the City Magistrate are facts.

The other affidavit is of Shri Surjit Singh (no 566) He maintained that his was an Engineering Graduate having passed B. Tech (Hons.) in Mechanical Engineering from I.E. Kharagpur in 1955 and claimed that he had obtained advanced training in engineering under Indo-German Technical Co-operation Agreement. He referred in his affidavit, without any justification, to episodes of Ramayan and Mahabharat and to the people when Maharaja Ranjit Singh was ruling over his kingdom.

According to him, the Government headed by Shri Rajiv Gandhi organised the riots all over India and all the Military and Police were ordered to become non-violent spectators. The police were ordered to help the rioters. In Kanpur the police went to jhuggi-jhopris dwellers and distributed kerosene oil, petrol and other inflammable materials and encouraged the public to kill the Sikhs., loot their properties and put the same on fire.

The then District Magistrate of Kanpur was extraordinarily zealous to encourage the riots. He is mainly responsible for the Kanpur riots. The propaganda on the Radio and Television as organised by the Government was extremely against the Sikhs so as to encourage the riots.. this appears to be the solitary affidavit filed before the Commission where an allegation implicating the Government, the Prime Minister and the military along with other instrumentalities including the police has been made.

Reference to this affidavit has been made to indicate these special allegations. The riot victims at Delhi have made no allegations against the Army. On the other hand, in clear terms their action has been praised and they have been given the role of protectors. So far as Kanpur is concerned, non-Sikhs alleged that some of the Sikh soldiers had assaulted a few of the rural residents.

This fact was subjected to an administrative inquiry by the Army authorities and as Brig. Kohli has stated, was found not to be true. It is thus clear that at Kanpur too the Army di excellent service as at other places where the Army had been deployed during the riots.

There is also evidence and Brig. Kohli has produced photographs of the functions where the Sikh residents of Kanpur including Shri Bhalla had honoured the military personnel after the riots were over and normalcy had been restored and Saropa was presented to Brg. Kohli as the head of the unit of the local Army personnel.

In this view of the matter the assertion that the military had failed to protect and became non-violent spectators is not correct. There is clear material also on record that the Army had exercised effective control in areas where necessary and had even resorted to firing as a result of which some rioters had been killed.

So far as the implication of the Government headed by Shri Rajiv Gandhi is concerned, it may be pointed out here that CJC has taken the stand that the violence at Delhi was premeditated and there was central direction, guidance and control over the riots. In October 1984 the Congress (1) Party was in power and Smt. Gandhi as the leader of the Congress (I) group in Parliament was the Prime Minister. With her death Shri Rajiv Gandhi became Prime Minister and headed the Central Government. Several people had made allegations implicating the Congress (1) leaders as perpetrators of the riots.

The Commission has separately dealt with that aspect. This affidavit alleges that the Government headed by Shri Raja Gandhi has organised the riots. There is indeed no evidence at all of Government implication as such. The Government headed by the Prime Minister is different from the Congress (1) Party and even if there were some lapses on the part of some members of the Congress (1), the Government cannot be said to be a delinquent.

The Commission, therefore records a finding that the Government of India had no hand in organizing the riots. So far as the Congress (1) Party is concerned, the Commission is of the view that its findings on this aspect relating to Delhi riots squarely apply.

The Kanpur Riots Inquiry Co-ordination Committee has made pointed allegations against the conduct of Shri Brijendra, the then District Magistrate and the State in its written submissions has referred at great length to Shri Brijendra's activities during that period to deny the allegations.

Apart from examining Brig. Kohli the Commission has, inter alia, examined two more persons in regard to the inquiry at Kanpur, one of them is Shri Brijendra and the other Capt. Bareth of the Maratha Light Infantry who had come as a part of the Army into the city during that period.

The allegations of the Committee against Shri Brijendra are that he had a bias against the Sikhs and wanted to give expression to his bias by mis-managing the position so as to help the riots to spread.

The Commission has already found that the assessment of the situation as made by Shri Brijendra was not correct. He had gone wrong in forming the opinion that the disturbances had abated by the night of 31st October and he also did not conduct himself properly as the custodian of 1.5 lakhs of Sikhs living within his charge. representing the State machinery and for effectuating the guarantee in Art. 21 of the Constitution which has been dealt with separately by the Commission, he had an obligation of secure the life and property of the Sikhs residing within the city. Smt. Gandhi was great leader of international repute and stature and was the Prime Minister of India. She was loved and regarded as their protector by the people belonging to the working class and the economically backward people. She belonged to Allahabad within the State of Uttar Pradesh and everyone in the State looked upon her with reverence and had a sense of special attachment for her.

When with the circulation of the information that she had succumbed to her injuries a definite change took place in the manner of expression of anguish against the Sikh community, the District Magistrate should have taken note of this change. He should have apprehended danger and knowing that the police at his disposal was not adequate as pleaded by the State, he should have immediately looked for augmenting the force.

In case such augmenting was not possible otherwise than by calling in the Army, in view of the fact that the Army had been alerted and was available within the Cantonment inside the city and he had the authority to requisition the Army to work in aid of the civil administration, the same should not have been delayed. Whatever police force as available, if the same had been properly deployed from the very beginning the situation would have been contained before the people had picked up the mob spirit.

The presence of one or two policemen in the streets would have possibly kept the people away and no formation of rioting mobs would have been possible. It is well known that many people as individual are not prepared to commit a crime but when they form part of a big mob out to do rioting, they do not mind such participation and activity. One hundred individuals gathering at a place not as a part of a mob are just an assembly of 100 men, nothing more. But when mob spirit is aroused they are not just a collection of 100 people, the mob itself is a newly generated force -- something much in excess of a totality of those 100 people.

It was the obligation of the police and was the duty of the Distt. Magistrate too to act at the right point of time to ensure the presence of the police in every nook and corner where trouble was likely to generate and make the presence of the police felt. The commission has several instances in the affidavits including that of Shri Sondhi just referred to above that presence of the police or even a shout that the police are coming worked like magic.

If police had shown their red turbans, raised their little finger and put up a questioning face at the appropriate time, the situation would have taken a different colour. It was the obligation of the District Magistrate as the head of the District Administration to have led the police that way and to have come to provide guidance at the relevant time.

Shri Brijendra posed to be an experienced civilian officer when he was examined by the Commission. He told the Commission that around 5 p.m. on 31st October he apprehended that there would be trouble. He also knew that the police force had been depleted.

The fact that three Circle officers from the outlying areas were away at Allahabad should have led him to immediately make alternate arrangement in providing three competent officers in those areas. It may be pointed out that these were some of the worst affected areas during the riots. His claim that by 6 p.m. on 1st November normalcy had been restored in Kanpur is clearly wrong.

Big. Kohli has, on the basis of records shown to the Commission, said that firing was necessary at about midnight on 1st November to repel riotous mobs from criminal activity. It is at that point of time that two people from the riotous mobs were killed. That being the position Shri Brijendra's assertion that 'normalcy was restored by 6 p.m. of 1-11-84. But for such strong coordinated activity the situation may have gone worse,' is not a correct one.

Shri Brijendra has told the Commission that the attack on Sikhs as community had never happened before, and, therefore, the police and the administration could not comprehend its nature and volume and had not been prepared to meet the situation.

It is perhaps on the basis of this statement of Shri Brijendra to the Commission (copy not supplied to Government) that the Uttar Pradesh Administration in its written submissions has adopted an argument on this line. The Commission finds no particular force in such a stand. So far as broad features are concerned, a riot whether it is directed against Hindus, Muslims, Christians or Sikhs would have a common pattern on many aspects. And the way in which such a riot has to be met would not very much depend upon which community it is addressed against.

The District Magistrate was, therefore, wrong in saying that this was for the first time that such a riot was noticed and the administration had difficulties in rising up to the demands of such an occasion.

The statement of the Distt. Magistrate before the Commission further accepts the position that there was lack of communication and the exact situation prevailing in the outlying areas had never been reported in time to him. The Commission has found it difficult to accept the assertion of the District Magistrate that:

"the Army could not have controlled the situation even if it had come earlier. As a fact it took about 9 hours to control the situation after the Army was called. The Army moves on the main roads only. When they move there is an apprehension that they might fire. As a fact they do not as they require a Magistrate to give them a direction."

As soon as the Army was called or even before the requisition had been sent, arrangements should have been made to deploy sufficient number of police people as also magistrates.

To meet an emergent situation the officers should have risen to the demands of the occasion and behaved with circumspection and leadership. If magistrates could be provided a little later that also could have been done before the Army move into the different parts of the city and magistrates could have been detailed to move along with the Army units.

At one stage the Commission had thought of issuing a notice under S. 8B of the Act to Shri Brijendra but later, on an appraisal of the entire evidence, the Commission thought of considering an inquiry in the hands of the State

Government against this officer more appropriate as mere naming under S. 8B of the Act does not bring about punishment.

The evidence given by Capt. Bareth of the 16th Maratha Light Infantry has led the Commission to take the view that an administrative inquiry should be made against this officer and his conduct as Distt. Magistrate in respect of October / November 1984 riots should be inquired into. Capt. Bareth has told the Commission :

"Around 10.30 a.m. on 1-11-84, I was called by my Adjutant to report to Kotwali Police Station where a joint police and Army Control Room had been set up. My officiating CO Major P. N. Pandit told me there to accompany a lady Magistrate, Mrs. Tomar, and act according to her directions.

I had an ad hoc column of a platoon formed under me when I moved out. Accompanying the Magistrate, we moved to Kidwai Nagar area. Enroute we met the District Magistrate of Kanpur, Shri Brijendra. He said that he would come with us. Between 11 and 11.30 a. m. We reached a place in Kidwai Nagar, the exact locality I am not in a position to recall, where we saw a big crowd already gathered.

When we saw the crowd the Distt. Magistrate asked us to stop and get down from our vehicles. We deployed the column which took its position and covered the area. By then we had left the main road and come into an approach road which appeared to lead to an open ground with a house located at its centre which was very prominent.

A little away from this house and after the open space scattered constructions appeared on all sides. This being my first visit into the city of Kanpur. I was not acquainted with the locality. Seeing the Army personnel a servant from the prominent house referred to above came up to us and told us that the big mob had gheraoed the residents of the house and wanted our assistance in rescuing them.

I estimated the crowd to be at least 5,000 strong and they appeared to be in a violent temper. When the question of rescuing was discussed and the District Magistrate was trying to take my opinion whether we should enter into the house and do the rescue operation, I suggested that the crowd which had gheraoed the house from all sides should first be cleared out.

I indicated to him that since curfew was already in force, by enforcing it strictly the collected crowd could be asked to disperse or at least recede to a distance of 500 yards from the house to facilitate rescue. I did not want to endanger the safety of my own men or myself by entering into the house in the face of the crowd.

Leaving the discussion with us that point, the Distt. Magistrate started talking to a few of the people from the crowd. What he talked I do not know since we were away from him at that point. He asked the police who were around to fire a few shots, the number of which I cannot indicate.

I cannot say whether they were all blank fires but it is a fact that the crowd did not budge. When the crowd did not leave and no sign of improvement in the situation was visible, I had filled up the requisition form IAFD 908 which authorises on the requisition of Magistrate, use of force including firing, depending on the situation."

Shri Brijendra, according to Capt. Bareth, did not sign the requisition and asked the lady Magistrate accompanying Capt. Bareth not to sign and told them that they could go elsewhere and he could meet the situation.

A little later the house was attacked by the mob. Killing took place, all the members of two families excepting a single widow were done to death and the property was looted and the house was set on fire. This matter has been investigated into by the Commission's Agency and the facts spoken to by Capt. Bareth appear to be generally true.

The report of investigation is in Vol. II Appendix II at pages 48 - 49. This incident has given the clear impression to the Commission that the conduct of Shri Brijendra requires to be looked into.

The Commission, therefore, recommends that the State Government should get the conduct of Shri Brijendra examined either by a retired Judge of the High Court or a senior civilian who without embarrassment can examine the allegations against him.

The Commission got 22 incidents examined through the investigating Agency and conclusions of the Investigating agency were duly supplied to parties. They appear in Vol. II Appendix 12 of the Report at pages 50-56.

When affidavits were called for by the Commission's Notification and later when the evidence was being recorded there were reported allegations of police interference. It was also alleged that some of the police officers had a link with the goonda element in the locality and, therefore, the bad characters were also harassing the witnesses with a view to keeping them away from the Commission so that their nefarious activities during the riots may not be brought to light and be exposed.

On several occasions the Commission had to make orders for affording police protection to witnesses. To ease out the situation the Commission suggested to the Uttar Pradesh Government as also to the police establishment of the District that the SHOs of every police station during the riots in case they are still in those areas may be shifted within the city so that a changed atmosphere can come to prevail and the victims may have no continuing apprehensions.

In deference to the suggestion made by the Commission during hearing of oral arguments, the shifting of police officers in the manner suggested has been done. Similarly, intimation has been received by the Commission from the Home Secretary of the Government of Uttar Pradesh on 30th May 1986

that in deference to the opinion of the Commission and the undertaking given by Government counsel during oral hearing at Kanpur, a Committee has been set up and appropriate Government Notifications have been issued.

There is evidence that some of the trains carrying Sikh passengers to Kanpur were detained at small stations before Kanpur Central Station as the situation at Kanpur Central Railway Station 31st October night was in bad shape.

The Tinsukia Mail which was scheduled to reach Kanpur in the early hours was detained at Panki around 2 a. m. The Commission visited the Panki Railway Station and had occasion to talk to the Assistant Station: Master over there.

The claim of the State Police that they had helped in the train being stopped and the Sikh passengers being rescued out to places of safety was not supported by the Asstt. Station Master and his men. On the other hand, the Asstt. Station Master indicated that an angry crowd had collected at Panki and was marching towards the Railway Station when these passengers had got down.

The Asstt. Station Master took these people into his office room, concealed them under his big table and switched off all the lights. When the angry mob wanted to go that side he kept representing to them that nobody had come to the office room. In these circumstances, the Sikh passengers had been saved.

The riot victims maintained that the police were active and played their normal role when trouble started on the 31st. But later during the day and on the following day their attitude became different and they remained passive and indifferent.

No reason has been ascribed on behalf of the riot victims for this change. Questioned about it, no one has answered giving a reasonable explanation for the change of conduct. Except that the Kanpur police might have followed the methodology of the Delhi Police after what was happening in Delhi got reported, no other clue has been found out.

The Commission had occasion to look into the reports of the pending cases on the basis of FIR's and investigations that have followed. From 21 police stations total number of 121 cases have come to court and 119 are pending trial while four cases have ended in acquittal.

A consolidated statement is in Vol. II Appendix 10 at pages 44-47 showing the position of these cases. Allegations of rape had been made and one Dr.(Mrs.) H.K. Borwankar working at the Guru Nanak Hospital, Kanpur, was said to be aware of this fact. Reference was made to the lady doctor's affidavit (no. 346) where these aspects have been stated.

The Investigating Agency immediately contacted Dr. (Mrs.) Borwankar. Though there was reference to 12-13 cases of gang-rape, she gave reference

of two incidents and requested the Agency not to make any investigation in view of the fact that one of the ladies concerned had already married away and the other was likely to get settled in life. In view of this position, evidence of rape has not really been made available to the Commission.

It is, however, not difficult for the Commission to take notice of the position that gangsters of very low type were involved in the riots and taking advantage of the disturbed situation that prevailed and the fact that male members of the affected families were being done to death and the ladies were finding difficulty in immediately seeking shelter, incidents of molestation would have been quite natural.

A break up of the affidavits filed regarding the Kanpur riots is available in Vol. II, Appendix 9 at pages 38-43.

Representatives of riot victims have met the Commission and have expressed a sense of satisfaction after the inquiry has been completed at Kanpur and the police reshuffle has taken place by saying that a sense of confidence has been restored to the Sikh community and several people who had gone away to Punjab have been returning to pursue their avocations.

The Committee in its written submissions took the stand that the Commission should have called upon the State of Uttar Pradesh and the District Administration of Kanpur to disclose the stand in a written statement and should have directed them to file their affidavits in support of that stand. The Commission does not agree with the stand adopted by the Committee.

On the other hand, as stated by the Commission, it was open to the District Administration and the State of U. P. to file their affidavits qua State District Administration or by officers in their individual capacity. The Notification issued by the Commission authorised one and all to disclose facts within their personal knowledge and relevant to the inquiry.

The allegation of conspiracy said to have been hatched by the lawless elements of the town in co-operation with the police and led by the District Magistrate to drown the Sikh community is dealt with thoroughly by the Commission at appropriate place.

The Commission has found that the lawless elements in the community took the upper hand during the period of riots. There was no conspiracy as such except that the police force became ineffective or not as effective as it should have been in discharge of its duties.

So far as the role of the then District Magistrate it concerned, is has been adequately dealt with. The Commission agrees that it is for the community at large to identify the culprits and ensure that the wrong-doer is adequately penalised in the hands of law. Suitable recommendations in that regard have been separately made.

BOKARO & CHAS

12. Incidents and Consideration of Affidavits

There is no dispute about the number of deaths in Bokaro and Chas Tehsils. The actual riot at these places took place on November 1, 1984, after imposition of curfew in the morning. Total deaths are admitted to be of 69 Sikhs -- on account of police firing on riotous mobs three non-Sikhs also died.

The situation in these two Tehsils was brought under effective control and normalised by the afternoon of November 1. A good number of people were killed in Dashmesh Nagar area where an unauthorised Gurdwara and a small colony of Sikhs were razed to the ground and everyone of that community found during the riot was done to death.

The Commission visited this locality and recorded a memorandum of local inspection. A large part of Dashmesh Nagar is a totally underdeveloped area of the street Township where there are a vast number of jhuggis and unauthorised constructions. There is no regular road link with that area from the city. Taking advantage of the secluded location, difficulties of communication and the distance from the police station the jhuggi dwellers succeeded in wiping out the Sikhs living in the area.

As noted elsewhere, the State of Bihar had initially given compensation of Rs.10,000 to the next of kin of each of the dead Sikhs. The Commission in course of hearing of the matter at Bokaro suggested that the compensation should be enhanced to Rs. 20,000 to be paid at par with similar compensation paid in other States.

The State of Bihar agreed to enhance the compensation and as a fact compensation at the rate of Rs. 20,000 for each dead person has now been paid. The State Government at the instance of the Commission provided a good number of riot victim widows with employment.

It has already been noted that the inquiry into the incidents at Bokaro during October-November 1984 riots came as a result of the subsequent notification following the accord between the Prime Minister and Sant Harchand Singh Longowal. Initially, the inquiry had been confined to incidents in the Bokaro Steel City which is in Bokaro Tehsil but on a reference made by the Commission on the preliminary finding that many of the incidents took place outside the Bokaro Steel City jurisdiction, the notification was amended and Chase Tehsil was also included.

Chas is a sub-division of Dhanbad District in the State of Bihar and contains the commercial part of the habitation. Many of the people working in Bokaro Steel City who do not have residential accommodation within the Steel City Complex live in Chas area.

Compared to non-Sikhs, the Sikh population in either of the Tehsil is small. The average Sikh in these two areas is a workman --- usually technician type. In the Steel Plant as also in the other industrial units in Bokaro there were a good number of Sikh workmen. These are the people who have suffered most during the riots.

News of the death of Smt. Gandhi reached Bokaro in the evening of 31st October. Bokaro Steel City has a Supdt. of Police independent of, and separate from, the District Supdt. of Police whose headquarter is at Dhanbad. The State Government had alerted the Steel City authorities as also local officers against any repercussions of the killing of Smt. Gandhi.

As it appears, prohibitory orders had been promulgated from the afternoon of 31st October and in the morning of 1st November curfew was imposed. In spite of the imposition of curfew in the morning, several incidents have taken place. There is no dispute that 69 Sikhs were killed within a few hours and when the police opened fire to disperse riotous crowds three of the rioters died. Several houses were looted and burnt and a lot of persons were also assaulted and received injuries.

Bokaro Steel City is quiet spread out. The Sikh employees who have mostly been affected were living either in Steel Factory quarters or jhuggis away from the main locality of habitation. For instance, Dashmesh Nagar is an area which is yet to develop. In this area there used to be a kacha-pucca Gurdwara and several small kacha-pucca houses where some members of the Sikh community were living.

A little away there are hundreds of jhuggis where other economically backward people like washer men and cowherds live. It is a fact that the entire locality where the Gurdwara and the houses of Sikhs were located was totally damaged and twelve persons were killed in this locality alone before any police assistance could reach.

The Commission had made a local inspection of this area and found that the allegations in the affidavits relating to incidents of this area were true. Other areas where most of the serious incidents including killings took place are the Co-operative Colony, Lakharkhana or Ritudin. In most of these places the rioters came from outside the localities where operations took place. It is not disputed that most of the rioters were known bad characters.

One striking feature in regard to Bokaro riots is that most of them consisted of small groups -- usually 40 to 50, though occasionally such mobs had gone up to 2000 or so. Some condolence meetings were held on the 31st evening and anti-Sikh slogan were raised and threats were held out. No serious incident took place till about 8 in the morning on November 1.

Curfew is claimed to have been imposed in the morning of that day and it would not be unreasonable to hold that the occurrences took place almost as a challenge to the curfew.

There is evidence on record that a white ambassador car had moved about preceding and during the riots and the allegation is that certain material were being supplied from the car to facilitate the rioting. The Commission has noticed that this aspect is mentioned in a FIR from where a charge -sheet has been sent up and the case is pending trial. The Commission, therefore, does not intend to say anything which might prejudice a fair trial.

As in Delhi and Kanpur, so also at Bakaro some people with party affiliation (Congress-I) did participate in the riots. The Commission has scanned the material with care and is of the view that the reasons as also the conclusions reached in regard to Delhi incidents equally apply to Bakaro.

As noticed separately, unlike Delhi and Kanpur, in respect of most of the incidents at Bakaro criminal cases have been instituted and are pending. Since specific incidents are the subject-matter of each of those cases, at the trial when evidence is led, and the full story of each incident is detailed, persons connected with them are likely to be roped in.

The Commission has noticed the anxiety of the victims that actual culprits be visited with proper punishment. Since criminal cases are pending and culprits when named (in case not named already) are likely to be brought before the Court, the Commission has not chosen to examine the evidence and reach a conclusion. The Commission can only name a person under s. 8B of the Act while the criminal court can adequately punish the culprit.

It is a fact that at Bakaro the Army had not been commissioned and the riots were contained by the evening of November 1, 1984, through the assistance of the Industrial Security Force locally available. There is allegation that DIG Srivastava when asked as to whether Army assistance was necessary, had replied in the negative on 2nd November 1986.

By then as a fact the riots had abated. Thus from DIG Srivastava 's statement that he did not require the Army any longer no adverse inference or bias can be drawn against him. Allegation of bias was raised against City magistrate Saran by Shri K. S. Bindra (no. 106). He alleged:

"While the mob was indulging in their looting spree, ASI of Police, Chas, Shri Pal happened to pass that way. He was greatly disturbed to see the illegal acts of the mob. He came running and fired in the air to scare the mob away. He even used physical force to disperse the rioters.

At the same time, City Magistrate Saran came on the spot along with armed force. He obviously got infuriated to see Shri Pal driving the mob away. He ordered ASI Pal to go away from there as it was no part of his duty to quell the riot. Shri Pal on being thus rebuked went away and Shri Saran also left without making any order whatsoever to safeguard our persons or property that was in the process of being looted by the mob in the presence of the police."

The allegation against the Magistrate was indeed serious. He was certainly wrong in pulling up the police officer but the Commission did get this aspect closely investigated and the contents of the affidavit turned out to be an embellishment.

Reference may be made to some of the affidavits of the victims to indicate the pattern of incidents. Miss Jasbir Kaur (no. 147) whose father was employed as a Caretaker in the Bakaro Steel Plant, states :

".... On 1-11-84 at about 8. 30 or 9 a. m. he (father) got ready to go to his office but as we had heard that the atmosphere in the entire city was surcharged with tension and anti-Sikh sentiment, we advised him not to go to the plant lest there may be any danger in the way. Thus, my father remained in the house.

That my brother Kamaljit Singh (aged 25 years) was undergoing TV Course at Calcutta and he had come to meet us on 30th Oct., 1984. Thus, he was also at home.

That my mother Harjit Kaur (aged 43 years) had some fracture in the ankle which was plastered up to down the knee and was therefore lying on a bed in the house.

That my younger brother Kuljit Singh (aged 16 years) was a student of Xth class studying on IX B High School. But as there were examination preparatory leave those days, therefore, he did not go to school and was also at home Sector IX, Qr. No. 1066 had come to our house to meet us and thus he was also at home.

That my brother in law (S. Avtar Singh aged 32 yrs.) who owns a Trekker and resides in Sector.

That on November 1, 1984, at about 10 a.m. or so, a mob comprising of more than two thousand persons came towards our house. They were having iron rods, lathis axes, spears, firearms, stones, etc. etc. with them. They were shouting anti-Sikh slogan like "Maar do sale sardaron ko ", "loot lo" etc. etc.

Among the mob, the conspicuous whom I could identify at that time were Mr. Upender, Mr. Joginder and Mr. Ajit all residents of Sector IX. Forth was Mr. Vinay Kumar Sahu of Sector VIII and one Mr. Deepak. Later on I identified other accused in the Identification Parade.

That on seeing the threatening attitude of the mob and their menacing advance towards our house, we four sisters, namely, myself, Balwinder Kaur (27 years), Paramjit Kaur (21 years) Charanjit Kaur (19 years) and two daughters of Balwinder Kaur (aged 2 years and 2 months respectively) escaped from the back door to the house of our immediately neighbour residing in Qr.No. 2015. From the window of house no. 2015 we saw everything that happened in our house. My mother could not accompany us because she was bed-ridden.

That the aforesaid mob, on coming near our house, started attacking it with sabbals and stones. At that time I saw that some in the mob were having tins of kerosene oil or petrol. They broke the window panes of our house and some of them started throwing burning rags inside the house through our window. By this time the mob had surrounded our house from all sides. There were some clothes lying near our window which caught fire.

My brothers and father and brother-in-law tried to extinguish the fire by pouring water over it. In the meantime, I heard the sound of somebody firing through a fire arm. I could not know whether it did hit anybody or not. Some miscreant in the mob started hitting the door of our house with iron rods and sabbals.

At that time I heard somebody saying that the water connection should be cut off. Somebody stopped the water supply because after that I saw fire and smoke in the house. Probably the inmates of the house aforesaid did not find water to extinguish the fire.

That thereafter the miscreants broke open the door of the house and started dragging out my mother, younger brother, father, elder brother and brother-in-law above mentioned.

That all the victims were dragged to the open compound outside the room. I saw that two persons had my younger brother, Kuljit Singh caught firmly and they were asking other miscreants to bring the spear to kill him. My brother-in-law is a clean shaven Sikh. Kuljit Singh cried for help to his mother but the mother wept bitterly and so much choked that she merely looked at her son helplessly.

I heard his cry for a few minutes and the miscreants started beating the boy mercilessly before his parents and brother and brother-in-law. All of a sudden the miscreants pounced upon all the five persons i.e., my mother, father, elder brother, younger brother and brother-in-law and started beating them with all parts of weapons on which they could lay their hands upon. All the five victims' aforesaid fell dead.

After committing the gruesome murder the miscreants started looting the house.. "

Details from this affidavit have been extracted to indicate that the nature of the violence was almost similar to incidents elsewhere. While in Kanpur and Delhi ladies were ordinarily exempted from attack, there have been incidents at Bokaro of the female folk being also the target of killing.

Affidavit of S. Narinder Singh (no. 109) of Gammon Colony narrates events relating to inhuman killing. He states :

"On November 1, 1984, after we had our morning tea, I heard lot of noise and commotion towards Joshi Colony which is at a distance of 400 yards from our

residence. After sometime I saw smoke coming out from that side and somebody told me that a mob had started indulging in looting the houses of Sikhs and that the trucks and house of one Sardar Kehar Singh had been looted and set ablaze by the mob.

After sometime I heard people shouting anti-Sikh slogans like "Sikhon ko loot lo -- Sikhon ko mar do. Sardaro ko Punjab bhej do, etc. All of us got scared and got ourselves secured inside our house. Though we heard a lot of noise and saw people running about carrying goods with them yet we were too frightened to come out of the house....

I know all the aforesaid persons (six of them named) very well because they are my neighbours and frequently meet us. They told us that there was a lot of danger to Sikhs outside. Larders are being killed and the houses looted and plundered and set on fire and that we should not come out.

We requested them that we may be escorted to the nearest police station so that our lives are not endangered. These persons assured us that they will take care of our house and lives and that nobody dare look at us in their presence. They repeatedly swore that they would lay down their lives to save us.

They further told us that we should not go with the police even became the police is also against the Sikhs and we shall not be safe if we go with the police. My mother Amrit Kaur (aged 45) prepared tea for the aforesaid persons and my younger sister Jagjit Kaur (aged about 17 years) who was a student of Chas Kanya High School, Chas, studying in class X served them tea and snacks.

These persons left after about half an hour and while going again repeated their assurance to protect us at every cost. They said that we must have faith in them than the police because they had been our immediate neighbours for the last more than 13 years.

That after being assured by the aforesaid persons, we remained inside our house. Though I came to know that the Sikh families were being rescued and taken to the Relief Camps, yet as the fate would have it, we decided to remain in the house. At that time we were the following persons in the room :

My mother Amarjit Kaur

My sister Jagjit Kaur

Rupa Singh, our neighbour, a clean-shaven Sikh

Pyara Kaur w/o Rupa Singh

Trilok Singh, our neighbour, a clean-shaven Sikh

Balbir Singh, our neighbour

Joginder Singh, our neighbour

Rupa Singh, his wife, Balbir Singh, Trilok Singh and Joginder Singh had come to our house to seek refuge and through they thought of going to relief camp along with police, yet on the assumption that the neighbours mentioned above would be true to their words and save us, they decided to stay with us.

At about 6 p.m. on 1-1-84, we heard our door being banged by some persons. On peeping through our window I found that all the six persons above mentioned were at the door. They were armed with revolvers, iron rods, lathis, spears and other sharp-edged weapons like knives and choppers. I could not understand their motive because they had earlier posed themselves as our saviours.

The above mentioned six persons were accompanied by other 10 to 15 persons whom I do not know by name but can recognise if produced before me. All of them started hammering our door and started abusing the Sikh community in filthy language.

I asked them as to what was the matter. They shouted that we should open the door, otherwise they would break open the door. However, the above named six accused persons said that they only wanted to loot our house and if we open the door and all the inmates come out, no harm would be done to our person.

As the force on my door was mounting and it was a matter of time when the door would break, we were left with no option but to open the door, escape and let the aforesaid accused have their way.

We opened the door and came out in the compound. Immediately when we came out the mob comprising of the aforesaid persons pounced upon us like blood-thirsty animals. The first blow was dealt by Chandan Singh aforesaid who hit my mother with a chopper on the shoulder. She was so dazed by this sudden and unprovoked attack that she did not ever scream and fell down on the ground.

The chopper caused a deep cut on her shoulder and she bled profusely. The attackers aforesaid did not stop after she had fallen but all of them gave her blows with their weapons causing grievous injuries and thus killed her.

The next to be attacked was my younger sister Jagjit Kaur (about 17 years old). A long knife was thrust into her neck which caused a deep cut and a stream of blood flowed from it. She instantaneously fell down but the aforesaid criminals continued to hit her till they were sure that my helpless sister was dead.

The wife of Rupa Singh was hit by a bullet in the temple. When she fell down, the aforesaid persons gave her further blows till she died then and there.

Balbir Singh and Joginder Singh aforesaid were surrounded from all sides and beaten mercilessly with lathis and iron rods. They dropped down dead. The aforesaid persons beat me also... when the dead bodies of my mother, sister wife of Rupa Singh, Balbir Singh and Joginder Singh were still lying down badly injured, I saw that the aforesaid persons started looting our house. They looted everything in the house....."

The deponent appeared before the Commission and offered himself for cross-examination but that was declined. Thus, whatever he stated in the affidavit must be taken to be a true account of the incident. When the young man appeared before the Commission he could not control his feelings and tears rolled down his eyes.

Human conduct could not be more depraved than what the narration pictures.

Reference may now be made to the affidavit of Smt. Joginder Kaur (no.150) of sector 8-B in the Bokaro Steel City. She, inter alia narrates:

"The mob shouted at Ajit Singh to open the door. They smashed the window panes and threw burning rags inside the house of Ajit Singh. Somebody threw a crude bomb inside his house which hurt the maid servant of Sardar Ajit Singh. When the mob could not open the door, the ring leaders among the mob swore by holy Gita and Janeyu that they only want to loot the house and if the inmates come out they will not be harmed.

Paramjit Kaur wife of Ajit Singh acting on these assurances opened the door of her houses. The boy, Lakhbir Singh was standing near Paramjit Kaur. The mob immediately pounced upon the boy and dragged him on the main street. They started beating the boy mercilessly with lathis, iron rods and sabbals (crowbars). Most of the blows were given on the head of the boy.....The boy had died instantaneously because of severe blows....."

The earlier affidavit of Narinder Singh was an instance of treachery and the present one is indicative of the extent to which the scripture could be called in aid by scoundrels.

Affidavit of S. Pritpal Singh (no. 92) residing in Chas area narrates event of looting. He and his brother were jointly carrying on business in motor-spares. He states:

"That on November 1, 1984, groups of people started looting the shops belonging to Sikhs after breaking open the locks of the shops. They also set fire to some of the shops. This looting spree started at about 8 or 9 a.m. and remained in full swing up to about 1 p.m.

When the mob was indulging in looting and burning the shops, police parties could clearly be seen moving around but they did not take any action either to disperse the mob or stop the miscreants from looting etc.

That the looting of the shops/houses started again at about 4 p.m. I could see the activities of the mob from the window of my house. At about 5 p.m., the mob set ablaze M/s. Bindra Tyres after looting it. The mob shouted that now it is Gulmarg Motor Company which has remained to be finished off.

We got scared and telephoned Gurdwara Chas to rescue us. In the meantime the mob tried to set our shop on fire but as we were the tenants and the landlord was a Bihari he intervened that if the shop is burnt his property will get damaged.

That ultimately a police jeep which was sent by the Gurdwara people (Davinder Singh Bindra accompanied the police party) rescued us at about 7 p.m. and we came to Chas Gurdwara."

Affidavit of S. Avtar Singh (no. 36) narrates a case of arson and looting. Avtar Singh was a residence of Bokaro Steel City area while S. Narendra Singh (no. 32) who also narrates an event of arson and looting belonged to Chas area.

The police at Bokaro were not as ineffective as at Kanpur or Delhi. Many of the affidavits indicate that the police came and helped. The Administration actually sought the help of Central Industrial Security Force which was put into use and the situation in Bokaro was contained within 7-8 hours.

The Commission takes notice of the fact that most of the incidents are subject-matter of FIRs which more or less have complete particulars. In almost every case an investigation has followed and a large number of cases have ended up in charge-sheet.

As noted in another part of the Report, some of these cases are already under trial. Break-up of the affidavits regarding incidents of Bokaro and Chas during the riots is available in Vol. II, Appendix 13 at pages 57-59. Particulars of the FIRs and the result thereof as also details of the cases are separately shown in Vol. II, Appendix 14 at pages 60-65.

A few events were investigated by the Investigating Agency of the Commission and its conclusions are in Vol. II, Appendix 15 at pages 66-68.

A map of Bokaro and Chas Tehsils with noting of incidents is in Vol. II, Appendix 16 at page 69.

13. A few Notable Instances

While dealing with the cases of violence at the three places, it has to be remembered that in each of these places the non-Sikhs constituted the majority of the population and the attack was by the non-Sikhs on the Sikhs.

There have been a few instances where the Sikhs being of a considerable number in certain pockets organised themselves in self-defence and were in a position to repel attacks of riotous mobs.

The Commission has also come across such instances where though at the initial stages such self-defence arrangements had succeeded, later on better armed larger mobs overpowered them.

The Commission, however, came across narrations of touching events where people of the non-Sikh communities readily came forward to extend protection even at considerable risk to themselves.

There have been two instances where the protectors have suffered death in the process of extending protection. People in colonies surcharged by considerations of humanity and compassion pooled their resources together of manpower and arms and raised defence units which successfully operated in keeping the mobs away throughout the riots.

There have also been instances where some policemen have exhibited a high sense of duty-oriented responsibility and not bothering about their personal safety came to the scenes of violence to extend the protection of law to the victims. Pitched against these are some instances of very low human behaviour.

The Commission had to record the sorrowful tale of a young man at Bokaro. In the initial round a small crowd came near their house. The crowd posed to have friendly disposition towards the residents of the house. They were invited inside the house, entertained with tea and in return they assured protection to the family.

A little later that mob, with a few others returned there, killed everyone in the house and caused grievous injuries to the deponent. There have been other instances like a demand of money assuring the protection in return. Soon after the money had been paid the killing spree started.

There have been several colonies in Delhi where no incident at all took place because the people of the colony showed solidarity and under local leadership showed magnificent conduct backed by proper strength. In his affidavit (no. 169), Shri Avtar Singh, one of the Sikhs residing in Block no. 20, Kalyan puri, has said :

“3. That the Hindus of 19 and 21 blocks did not allow the mob to proceed towards our block. No police came to our block. We remained safe because of the help of block nos. 19 and 21 only.

5. From 31-10-1984 we Hindus and Sikhs joined together and started keeping night-watch and due to that our block remained safe."

There are several affidavits of this type before the Commission and detailed reference is made to one of them to indicate the pattern. The episodes during the riots were full of exhibition of human behaviour touching divinity on one side as also animal-like conduct of the most base type on the other.

14. Prosecuting the Offender

Most of the widows who appeared before the Commission as witness had a common grievance that the persons who looted their houses set them on fire, killed their husband, children and near relations and brutally assaulted them as also on occasions outraged their modesty, were not being prosecuted.

They had the obsession that the killers were free on the streets and were even in a position now to jeopardise their security. When the commission was set up and it became palpable that the incidents of the riot period would be scrutinised in the inquiry, these very villains started threatening the widows and other deponents as also people of the Sikh community with dire consequences in case they came forward to file affidavits, give evidence or did any such thing or took such action which might involve them either in proceeding before the Commission or in criminal action.

In many of the affidavits there has been clear indication of the failure of the administration to prosecute the culprits and demand of appropriate prosecutions and due punishment to be awarded to the persons involved in the crimes. The desire to punish is deeply ingrained in man. Law is said to be a regulator of human conduct and those who do not behave according the set pattern of society and thus commit crimes expose themselves to the process of law.

The sharp teeth of law are supposed to bite the deviators. Punishment as deserved for any offence is regarded as retribution; others would regard it as a means of controlling action, i.e. as deterrent or prevention; still others would regard it as a means of producing some form of moral or psycho-social regeneration, i.e. as reform or rehabilitation.

Whether punishment is based upon the considerations of retribution, determent or reform, unless the wrong-doer is punished, the social fabric is bound to lose its grip over the people living in the community and both fear and respect for law are bound to diminish.

Adam Smith once pointed out that punishment of the wicked is deeply rooted in human instinct and perhaps what the widows and relations of the victims have demanded before the Commission is based upon that. Karl Marx was also right when he said :

"Plainly speaking and dispensing with all paraphrases, punishment is nothing but a means of society to defend itself against the infraction of its vital conditions whatever may be their character."

This statement of Marx has the approval of jurisprudence writers. Punishment occurs when the rules are broken and as long as rules exist so shall punishment.

Crime will always remain with us and unless law maintains its grip effectively, the fear of punishment would die out and punishment and law shall cease to have the quality of determent. An anonymous tract written in 1546 ran thus :

"Many thousands of us much here before lived honestly upon our sore labour and trivial bringing up our children in the exercise of honest labour, are now constrained some to beg, some to borrow, and some to rob and steal. And that which is most likely to grow to inconvenience, we are constrained to suffer our children to spend the flowers of their youth in idleness, bring them up to bear beggars, packs or else, if they be sturdy, to suffer prisons and garnish gallows trees....."

In the centuries that have rolled by since the tract was written, society has faced new challenges. Accepted norms have vanished, living pattern has become complicated, competition has increased hundred fold and tolerance has become a thing of the past. In order that the community may be held together strict vigil over lapses and enforcement of law have become necessary.

The Commission is inclined to agree that unless the wrong-doers are punished appropriately in accordance with law, apart from the fact that the victims will go totally unsatisfied and this social failure will lurk in their minds for years to come and is likely to be misunderstood as a treatment of partially, the wrong-doers would feel encouraged and get emboldened to look forward to fish in troubled waters.

It is, therefore, necessary and the Commission is of the firm opinion that every wrong-doer should be punished in accordance with law and every victim should have the satisfaction that the wrong done to him/her has been avenged in terms of, and according to the scales of justice.

Where the community machinery fails to avenge, private enterprise starts. This again has a very detracting force on society and its control and no room for that should be left.

Elsewhere the commission has dealt with the number of incidents in a classified way. The Commission has also held that during the period of riots, the rioters had their way and the administration had failed to exercise adequate control. Such a tense and panicky situation prevailed that it became difficult for the victims to approach the police for lodging first information reports.

It is a fact and the Commission on the basis of satisfaction records a finding that first information reports were not received if they implicated police or any person in authority and the informants were required to delete such allegations from written reports.

When oral reports were recorded they were not taken down verbatim and brief statements dropping out allegations against police or other officials and men in position were written.

Several instances have come to the notice of the Commission where a combined FIR has been recorded in regard to several separate incidents. For instance, where a large mob came, got divided into groups and simultaneously attacked different houses and carried on different types of operations in the different premises, they as a fact did not constitute one incident; yet only a common FIR has been drawn up.

Recording in brief narrative the incident in a common FIR, would not provide a sound basis for a proper prosecution. Tagging of so many different incidents into one FIR was bound to prejudice the trial, if any, as also the accused persons, if called upon to defend themselves in due course.

The Commission has noticed on several occasions that while recording FIRs serious allegations have been dropped out and though the case was in fact a serious one, in view of the dropping out of the major allegations, a minor offence was said to have been committed.

The Commission was shocked to find that there were incidents where the police wanted clear and definite allegations against the anti-social elements in different localities to be dropped out while recording FIRs. Unless the police were hand in glove with the anti-social elements in their respective localities they would not have behaved that way.

The sum total effect of this has been that proper FIR's have not been recorded. There has been initially some delay in lodging/recording of FIR's on account of the fact that during the period of riots what was of primary importance for the victims was to run away from the scene and conceal from notice of the rioters so as to escape certain death.

In several instances those who had not been massacred were picked up either by police or Army personnel or through other agencies or by their own efforts and shifted to Relief Camps where they were maintained for some time.

Semi-normal conditions returned in different localities within 3-4 days but confidence took time to get restored and, therefore, until the victims returned to their localities quite some time after, in most of the cases they did not know what exactly had happened, so as to make a full report ; nor did they know as to who exactly had died or got assaulted.

There have been several instances where the lady went one way and found herself in one Camp while the children went elsewhere and ultimately got lodged in a different Camp. Being terror-stricken each one ran for his or her life oblivious of what happened to others of the family.

When they reached Relief Camps there was no scope for renewing contacts unless by chance they were in one common camp and until they met or re-assembled under a common roof each one was unaware of the continued

existence of the other. Only when they came back to their respective localities, scope for lodging of FIRs came.

The Commission did come across instances where some FIRs were recorded in a Relief Camp but these were comparatively few. The delay in lodging of FIRs could, therefore, be reasonably explained. If properly explained, many of the lapses in the FIRs may also become acceptable.

In many cases there has not been a proper investigation. The Commission checked up records of investigation of different classes of cases at random and came to find that the investigations were usually perfunctory and most of them had not been duly supervised even though they involved allegations of serious crimes. In view of the fact that bulk of dead bodies, particularly in Delhi and Kanpur had been burnt soon after the incidents, all post-mortem reports were not available.

Want of post-mortem in such circumstances could not be used as a ground against the prosecution. The final reports submitted in these cases, particularly in regard to offences of murder, looting and arson should be reopened and further investigation undertaken as provided in s. 173(8) of the Code of Criminal Procedure.

In regard to the graver offences the limitation prescribed under s. 468, Cr.P.C. has no application, sufficient discretion also vests in the criminal court under s. 473, Cr. P.C. to deal with situation arising in particular cases.

Most of the cases have ended in final report and a few have been charge-sheeted. Separate detailed statements for the three places under inquiry are already appended in Vol. II at respective places from which the total number of FIRs lodged, investigation undertaken, final reports or charge-sheets submitted, number of criminal cases instituted, etc. would be available.

Apart from this, the Commission has collected the data of pending cases at all the three places and even verified about half of the records thereof. Detailed lists of pending cases at the different places are to be found in Vol. II of this Report. It would appear that in regard to the incidents at Bakaro the dereliction of the police is comparatively minimum.

Most of the FIRs are detailed and facts which have been stated in the affidavits more or less appear to have been reflected in the reports. There has been some amount of independent investigation and the ratio of cases where charge-sheets have been filed to final reports is comparatively high. Some of the cases have also proceeded for trial notwithstanding the fact that in Bihar criminal trials take a long time even to begin.

The Commission came across instances where the charge-sheets required reforming and the committal order required modification at the stage of the commencement of the trial in the Court of Sessions. This in law is permissible as the trial judge has to frame his own charges or can even alter the charges

framed by him. The Commission also came across instances where the assistance of lawyer given to the prosecution was not qualitative.

In the course of sitting at Bokaro the Commission had suggested to the learned Advocate-General of Bihar who represented that state that instruction should be issued to the Public Prosecutor to ensure that either he personally handled these cases or a capable prosecuting counsel should be engaged in every case and instructions should be given to such counsel or to the Director of Prosecutions or some other authority handing that job to look into the records and find out whether different sets of charges were to be framed on the basis of the material on record.

The learned Advocate-General had assured the Commission that appropriate instructions would immediately be given. A return of compliance along with various orders and directions made by the State Government has been filed. The Commission hopes and trusts that the directions shall be implemented to the fullest extent.

The Commission found that at Kanpur the FIRs were not properly taken down and in many cases common FIRs had been recorded. Similar defects as found at Bokaro were also noticed. During the hearing of oral arguments when the Commission pointed out these aspects, Mr. Giridhar Malaviya appearing for the State of U.P. agreed that necessary steps would be taken and, therefore, the Commission had recorded the following order :

"In the course of submissions made by Mr. Malaviya on behalf of the State Government, the question as to the investigations launched on the basis of the First Information Reports lodged by the victims came up for consideration. The Commission pointed out to Mr. Malaviya that the investigations seem apparently not to have been properly done and the follow up action has also not been properly supervised.

Mr. Malaviya agreed that there is scope for such a view and assured the Commission that State Government would take prompt action in the matter of moving the appropriate courts for re-opening of the investigations as provided under the Code of Criminal Procedure and in all appropriate cases such applications would be made, orders obtained and when permitted by the Court, due investigation will be conducted and all follow up action would be taken.

Proper lawyers competent to handle these litigations will also be engaged. Mr. Malaviya has further agreed that a Committee consisting of at least three competent people will be set up to supervise and oversee these steps.

The Commission expects that the State Government would appoint an appropriate Committee for the purpose.

Mr. Malaviya has agreed that the Commission shall be informed of all action taken in this regard by May 31, 1986, so that this aspect may be properly reflected in the Report of the Commission."

In the written arguments furnished on behalf of the State of Uttar Pradesh the fact that the proposed Committee has already been constituted has been disclosed. Shri Malaviya appearing before the Commission subsequently also stated that the Committee has started functioning.

The Commission records a recommendation on the same line as in regard to cases at Bokaro for the prosecutions at Kanpur.

Coming to these aspects of cases at Delhi, the picture is very grim and the Commission is inclined to agree with the victims that the major part of the responsibility must be shared by the police.

While at Kanpur a number of cases have been charge-sheeted and trial thereof is pending, in Delhi most of the cases were closed by final report and the few cases where charge-sheet has been sent up (details of which appear in the Appendix), not much of progress appears to have been made except in a few.

The police released most of the accused persons on bail at its level and those who were challenged to the court in custody have been released by the Court. There has been obviously no effective opposition in the matter of grant of bail nor has the order of release on bail been challenged in judicial proceedings in higher courts.

The criminal activity in Delhi apart from being widespread and in greater intensity exhibited a varied spectrum of human conduct. This requires thorough investigation and careful handling. The same police who remained ineffective during the riots and against whom several allegations were advanced whether recorded or not, were the investigating agency in respect of the FIR's.

The Commission finds it not difficult at all to appreciate and accept the contention of the victims that in such circumstances proper investigation could not be expected. Since the number of deaths is considerably great and there have been number of other grave offences committed, it is necessary that the allegation should be properly looked into and investigations suitably monitored.

This will mean fresh or further investigations and review of all actions subsequent thereof. For this purpose since the volume of work is quite heavy, a Committee of at least two officers - one judicial and one administrative, preferably a high ranking police officer from outside Delhi - should be appointed immediately with full authority to look into the papers and give such directions to the prosecuting agency as the facts of each case would warrant.

Since there has been a lot of delay in attending to these prosecutions and as further delay would prejudice proper trial and also the prospect of justice being done, it is necessary that expeditious steps should be taken to implement these aspects.

A list of seventeen cases has been supplied by the Committee in its written arguments wherein Sikhs are accused of different offences. The note appended shows that the list is not complete and there may be some more cases pending.

It is the stand of DSGMC that some of these cases were baseless, on embellished allegations; innocent people have been roped in and while the aggressor has gone scot free, those who defended themselves in exercise of their right of private defence of person or property have been subjected to the clutches of law.

Since the cases are pending trial, the Commission considers a totally improper to deal with them on merit or express any opinion which might embarrass their trial.

The Commission, however, is of the view that recommended Committee should be asked to look into these cases and if there be any prosecution which is not justified by the test of normal norms, the same should, in the interest of justice, be withdrawn by the Delhi Administration.

15. Compensation to Riot Victims

Transformation of society from the state of nature to an orderly one came to be based on the premise that the community took over the protection of everyone inhabiting it. Individual efforts for ensuring protection of life and private property were no more necessary as the community machinery became responsible therefor.

When our Constitution was formed and fundamental rights were guaranteed to citizens under Part III thereof, Article 21 came to confer on every citizen the guarantee of not being deprived of life except according to the procedure established by law.

What Article 21 envisages is not only that the State would not take away the life of any person except according to the procedure established by law, but also postulates that every person living within the community would have respect for human life and would not deprive any one of his life except by taking recourse to the process established by law.

Within the community, where millions of people live, the guarantee to life can work in an effective way only when not only the State but also every individual is pledge-bound to respect the life of every other person,

Non-deprivation of life is the core of rights of man. The term "life" means right to life expectation, continual normal existence of a human being without being shortened in any way such as execution, crucifixion or genocide. It includes life-like things such as individual personality, physical security and also includes the right to the possession of arms, legs, eyes and other component parts of the human body.

Deprivation of life is forbidden except by procedure authorised by law. If the State does not have the privilege of summary deprivation of a citizen's life, much less can a citizen have this right against a fellow citizen. The guarantee under Article 21 is, therefore, not only against the State but it is also against the entire community. As pointed out by the Supreme Court in *F. C. Mullin v. Administrator, Union Territory of Delhi* :

"Every limb or faculty through which life is enjoyed is thus protected by Article 21 and a fortiorari, this would include the faculties of thinking and feeling. Now deprivation which is inhibited by the Article may be total or partial, neither any limb or faculty can be totally destroyed nor can it be partially damaged. Moreover, it is every kind of deprivation that is hit by Article 21, whether such deprivation is permanent or temporary."

This view has received judicial acceptance. Within the community every citizen is thus entitled to integrity of his physical person and mental personality. In *Sunil Batra et. v. Delhi Administration & Ors. Etc.*, the Supreme Court pointed out :

“The roots of our Constitution lie deep in the finer spiritual sources of social justice, beyond the melting pot of bad politicking, feudal crudities and sublimated sadism, sustaining itself by profound faith in man and his latent divinity.”

Article 51-A of the Constitution has indicated the fundamental duties of every citizen. It is the obligation of everyone to abide by the Constitution and cherish and follow the spirit thereof. Article 51-A also requires that citizens would abjure violence. It is not necessary in the view of the Commission to refer to the catena of cases decided by the Supreme Court over the years where the dignity and importance of human life have been emphasized and the necessity of every individual within the community to honour, protect and safeguard human life has been reiterated.

The Union of India and the Delhi Administration as also the other groups represented before the Commission have unequivocally stated that the riots were totally unjustified ; the inhuman and gruesome killings were not only against the spirit of the Constitution but were against the law of the land; opposed to the sense of human morality and were a naked exhibition of low animal conduct. In a civilized democratic polity governed by Rule of Law, uncontrolled physical violence has no place.

Violence and democracy do not go hand in hand. Democracy is often compared with a tender plant which for its growth requires nourishing by elements like fellow-feeling, compassion, a sense of deep understanding, abiding trust and universal respect for human life.

Democracy functions appropriately only when society is on even keel. Not only should there be respect for life but also the rights of every citizen in the community have to be accepted by everyone else so that each citizen may be assured of his own rights.

Performance of duty is the cornerstone of the guarantee of rights to citizens. The system becomes unfailing and perfect only when the correlative relationship between duties and rights is properly understood and everyone willingly performs his duties while looking for fulfilment of his rights.

During November 1984 riots a great number of innocent people belonging to the Sikh community were killed at Delhi as already found by the Commission. It is perhaps true (so stated in view of the pendency of the appeal against conviction) that the people who had killed Smt. Gandhi belonged to the community of Sikhs.

From the fact that the killers were Sikhs it does not follow that every Sikh was liable to suffer vicariously for the atrocious acts of the two security guards who assassinated her. The identification of the two Sikhs with every member of that community living in India and to treat every person of that community at par with the assassins has been an unpardonable and unfortunate mistake.

Even one of the assassins who were taken into custody alive was not exposed to barbaric treatment. Under the civilized system of law, even the known murderer is entitled to protection of his life and Article 21 of the Constitution extends the guarantees to him. In Sunil Batra's case the Supreme Court had held that the condemned prisoner awaiting execution is entitled to the guarantee of Art. 21.

Viewed in any manner, a section of the community was not entitled to take the law into its own hands and kill innocent people belonging to the Sikh community.

In the affidavits filed on behalf of the victims and in the statements made under oath by some of them-in particular, widows- the details of the incidents have been placed before the Commission. The Commission has elsewhere found as a fact that till about 2'o clock in the afternoon of October 31, 1984, no incident involving violence had taken place in Delhi. Similarly, till about 2 in the afternoon of that day there was no violence at Kanpur and till the evening of that day no noticeable occurrence took place at Bokaro-Chas.

Several incidents, however, took place in Delhi in the afternoon, the evening and the night of October 31, 1984. Attempt was made to press before the Commission the Report published by the PUCL which is said have conducted an unofficial inquiry into the happenings during November 1984 riots at Delhi.

In the inquiry so conducted a conclusion was reached that no event of consequence had happened on October 31, 1984, and only when certain individuals and agencies organised and mobilised the mobs, violent incidents took place on the following day as also a couple of days to follow.

The evidence led for the victims clearly indicates that several incidents have taken place on October 31, 1984, at Delhi. These included the manhandling of Sikhs passing on public roads either on scooters, motorcycles, private cars or public transport; assault on them; burning of their scooters and vehicles as also taxis and trucks; pelting of stones at Sikh houses.

That night even two or three Sikhs appear to have been killed. During the night the incidents of arson took place and there occurred certain events of brutal assault. The Commission had made it clear in course of the proceedings that it would not rely on the findings reached in the inquiry conducted by the PUCL.

The inquiry by the Commission is a statutory one and it has collected its own data and got investigation conducted into the incidents and had received the reports. The Commission has, therefore, to reach its own conclusions on the material available to it. Apart from this, the Commission is of the view that the conclusion that no sizeable incident took place till the evening of October 31, 1984, reached in the inquiry conducted by PUCL is not a correct one.

In fact, on the basis of the conclusion that no material event occurred on October 31, that inquiry proceeded to find that taking advantage of the

situation interested parties, including certain leaders of the Congress(I) Party, organised violence. It is not for this Commission to take notice of that Report, make an analysis and either accept or reject the same. It is sufficient to indicate that the said Report has not been relied upon by the Commission for any purpose.

It is fact that the events in Delhi took a very ugly turn from November 1, 1984. More of mobs larger in size than on the previous day and suitably armed with weapons as also with material to conveniently commit arson appeared on the public roads on and from November 1, 1984. The Commission is of the view, agreeing with the submissions made by the Administrations as well as riot victims that the incidents of October 31, 1984, were a natural sequel to the killing of Smt. Indira Gandhi.

For a few years before October 31, 1984, certain unfortunate incidents had been happening in Punjab. Very often innocent people belonging to a particular non-Sikh community were being killed. The Commission has collected the information from the Punjab Government in April 1986 that their number between June 1, 1983, and October 4, 1984, was around 380 (Appendix at Vol. II, page 70). This had created a stir in the minds of people living within as also outside Punjab.

According to the Indian tradition a lady cannot be killed and she is said to be Avadhyा. Sikhs are reputed for their valour and valiance. When two of the Sikh guards drawn from the police and meant for providing security to the late Prime Minister opened fire on her and she succumbed to the injuries thus sustained, a sense of universal anguish was a natural reaction.

The Commission, therefore, accepts the submission advanced before it that the incidents against the Sikhs on October 31, 1984, started as a natural reaction to the situation and at that stage there was no organised attempt to cause or spread violence by rioting directed against the Sikhs. The Commission, however, reiterates that the Sikhs as a community had not committed any crime and were not answerable for the abominable act of the assailants.

In a few affidavits filed by the non-Sikhs at all the three places of inquiry it had been stated that some of the Sikhs residing in certain parts of the three towns celebrated the death of the Smt. Gandhi by distributing sweets, themselves drinking and distributing drinks as also lighting their houses in the manner done on the occasion of Diwali.

These allegations have been refuted by filing of affidavits and in the course of arguments by counsel appearing for the riot victims. A few of the deponents who pleaded such conduct on the part of the Sikhs were examined at length both at Kanpur as also at Delhi. There is not much of evidence which can be said to be credit-worthy to support the allegation of any large scale rejoicing in any of the three places to which the inquiry by the Commission is confined.

The Investigating Agency had given attention to this aspect but apart from allegations of stray instances of such unusual and imbalanced conduct, it did not find clear evidence. It is quite likely that some misguided Sikhs have had rejoicing over the death of the late Prime Minister.

Death of a great leader in the hands of her security guards was certainly not an event for celebration and the Commission cannot but condemn such conduct. But that again is no justification to resort to mass violence against the Sikh community. Every Sikh who has appeared before the commission has expressed extreme sorrow on the assassination of Smt. Gandhi. In the condolence meetings that followed her death many of the Sikhs publicly participated.

In a number of affidavits of Sikh victims before the Commission there is specific mention of the fact that assault on her and her consequential death brought about generation of widespread sense of gloom and sorrow. Some of the widows who appeared before the Commission did narrate at length that they were grief-stricken when they heard about the assault on Smt. Gandhi and her death. The rejoicing by some Sikhs was again no justification for mass frenzy against totality of the Sikh community.

The Commission has already recorded a finding that there were widespread lapses on the part of the Delhi Police during the November 1984 riots. The Delhi Police are governed by the Delhi Police Act (XXXIV of 1978) which has been in force within the Union Territory from July 1, 1978.

By the Act the Police Act of 1861 has ceased to have force in Delhi(see s. 149). Under s.4 of the Act, the superintendent of the Delhi Police throughout Delhi vests in, and is exercisable by the Administration and any control, direction or supervision exercisable by an officer or any member of the police force is exercisable subject to such superintendence. Sections 59 and 60 in Chapter VI of the Delhi Police Act prescribe the duties of police officers. Section 60 provides:

“It shall be the duty of every police officer-

to the best of his ability, to obtain intelligence concerning the commission of cognizable offences or designs to commit such offences and to lay such information and to take such other steps consistent with law and with the orders of his superiors as shall be best calculated to bring offenders to justice and to prevent the commission of cognizable and, within his view, of non-cognizable offences;

to prevent the breach of the public peace;

to use his best endeavours to prevent any loss or damage by fire;

to use its best endeavour to avert any accident or danger to the public;

to discharge such other duties as are imposed upon him by any law for the time being in force."

Section 149, Code of Criminal Procedure, 1973, provides:

"Every police officer may interpose for the purpose of preventing, and shall, to the best of his ability, prevent, the commission of any cognizable offence."

This being a police obligation, is covered specifically by clause (r) of s. 60 of the Delhi Police Act. It is thus clear that those of the police officers who failed to comply with the requirements of s. 149, Cr. P.C. or s. 60 of the Delhi Police Act, have made themselves liable to be dealt with in accordance with law.

The allegations before the Commission about the conduct of the police are more of indifference and negligence during the riots than of any wrongful overt act. It is a fact that in some cases there have been allegations of police participation in the riots but the Commission, in the absence of categorical evidence and in view of the findings of the Investigating Agency, is not in a position to reach a conclusion that there was such police participation. But instances of non-feasance are plentiful.

The next relevant aspect to consider is as to what is the consequence of such lapse. Before going into that aspect, it has first to be considered whether the police owed a duty to the community as a whole or to individual citizens within the society in the matter of providing security for life and property.

The Commission is of the view that the duty owed by the police is more to the community as a whole as also to the individuals constituting it. In that event the victims have a right to lay claim in tort against the police officers when they failed to perform their duty and such failure brings about evil consequences and suffering to them.

Since this statute imposes a duty and does not provide any remedy by which the duty can be enforced, the general rule is that an action for damages can be brought provided the person suing is one of a class intended to be benefited by the duty. That was the view of Lord Campbell in *Couch v. Steel*. In *Square v. Model Farm Dairies (Bourn Mouth) Ltd.*, 4 Slesser, L.J. pointed out:

"Where there is a duty imposed by statute and someone is injured by reason of a breach of that duty, in the absence of any penalty or remedy provided in the statute itself, normally an action would lie."

While the liability of the delinquent police officer for damages in tort would be maintainable, the question for further consideration is whether the State also has liability for the failure of performance of duty by its officers. It has been strenuously contended on behalf of the Administration that the State would have no liability to compensate as any such action in the Courts of Law would not be maintainable in view of the immunity enjoyed by the State. The Commission proposes to briefly examine the tenability of this stand.

A Constitution Bench of the Supreme Court in the case of State of Rajasthan v. Smt. Vidyawanti & Anr.⁵, clearly held that the liability of the State for damages in respect of a tortious act committed by its servants within the scope of employment and functioning as such was the same as that of any other employer. That was the case of a delinquent driver who hit a man while driving a State vehicle. It may be that on facts it may not be a comparable case and perhaps more clear authority would be necessary for making the State liable in the present set of facts.

The Commission has already recorded a finding that there is a guarantee to life under Art. 21 of the Constitution and it is the obligation of the State- nay, of everyone in the community too- to effectuate this guarantee by not interfering in any manner with the life of citizens except in accordance with the procedure laid by law.

That fundamental right is the most paramount of all such rights. The life a citizen is the very foundation upon which the exercise of all other rights guaranteed by Part III of the Constitution can only be exercised. Where there is a failure by the State or its appointed agency to guarantee that right, a serious situation does arise. And in examining the matter from that angle one has to keep this position in view.

The weight of opinion of jurists in America is in favour of the defence of immunity not being extended to cases of this type. In recent years the legal community has sought to encourage police respect for the constitutional rights of the citizenry through curbing overreaching police behaviour. Recent developments in tort law affecting both the public and private sectors might lead one to expect a relaxation of judicially constructed barriers to recovery.

In the public sector, governmental tort liability has been significantly expanded through judicial and legislative narrowing of the scope of protection afforded by the doctrine of sovereign immunity. Collectively, the economic and social benefits of cost rationalisation, loss spreading, and corrective justice provide a cogent argument for recognising police liability for negligent failure to prevent crime.

Rather than continuing to be mesmerized by fears that expanded liability would drain government coffers and unacceptably encroach on police discretion, courts should recognise the force of these countervailing considerations and abandon the antiquated no-duty rule in favour of a new liability regime, is the opinion expressed in 94 Harvard Law Review 821. Prof. Bermann in his article "Integrating Governmental and Officer Tort Liability", (1977) Columbia Law Review 1125, has adopted the same view.

In the United States, by Federal Tort Claims Act, 1946, Congress has made the United States liable in the same manner and to the same extent as a private individual in like circumstances, for damages. In several countries, including England, immunity has been waived by legislation and special provisions have been made regulating liability.

In Kasturi Lal v. State of U.P 6., the Court accepted the test of distinction between sovereign and non-sovereign functions adopted by Peacock, C.J. in P&O Steam Navigation Co. v. Secretary of State for India, but found that the plaintiff bullion dealer could not recover damages from the Government of Uttar Pradesh for the misappropriation of the gold by the police officer.

Gajendragadkar, C.J. extended the cover of immunity but simultaneously commended to Government to legislate in the manner provided in England and U.S.A. A comprehensive bill known as the Government (Liability in Tort) Bill, 1967, being Bill No.43 of 1967, was introduced in Parliament and had been sent to the Joint Select Committee of both Houses but ultimately did not get through.

The Commission does not propose to go into the tenability of the claim for damages or maintainability of the defence of immunity as such aspects are for the appropriate court to adjudicate but the Commission is of the opinion that in Welfare State every agency of the State should be made accountable to society and be liable to compensate the individual for breach in respect of fundamental rights to every citizen.

When viewed from that angle, the police must be accountable not only to the State but also to the individual within the community for whose protection the police is maintained. Such accountability is bound to raise the efficiency of the police and make the police force more disciplined and utility oriented.

Without entering into legal squabbles, the Commission is of the view that the riot victims deserve to be compensated. In respect of every death the next of kin has been paid Rs. 20,000.

In respect of loss to residential premises small compensation of varying standards has been given in all the three areas subjected to inquiry. For business loss or loss to commercial premises no compensation has been admitted. Under instructions of the Central Government certain Banks came forward to encourage various rehabilitation programs.

It is a fact that easy loans have been provided in certain cases. The terms under which loans had been taken have been suitably modified and for rehabilitation fresh loans have also been advanced. In a separate Chapter the Commission has indicated some of the benefits the riot victims have managed to obtain through its intervention.

For those ladies whose husbands were killed during the riots- they have become widows- the Delhi Administration has provided some accommodation and is striving to make provision for the remaining. Yet, it is a fact that the victims have not been totally rehabilitated. With a view to normalising the situation and giving the riot victims a sense of security, the rehabilitation program has to be continued for some more time and compensation for the loss sustained should be given.

The Commission came across several instances where though the commercial premises, including stocks had been insured, the insurer had repudiated the claim on the ground that riot had not been covered. In a Welfare State, particularly in view of the social security assured by it, there should be no need for insurance against riots.

In case riot insurance is necessary every insurance should ordinarily cover situations of riot and there is no necessity for making any special arrangement for it. The Commission was given to understand that the General Insurance Corporation has now decided to cover riot risk in every insurance of property. The Commission is of the view that Government should favourably consider and entertain claims of the riot victims in this regard to facilitate rehabilitation and thus ultimately make it convenient to normalise the situation.

The Commission recommends that reasonable compensation as may be decided by the State should be paid for commercial premises whether owned or occupied and loss sustained by the victims within the commercial premises should also be taken into account in such manner as may be agreed to by Government to be paid to the victims.

Necessity to compensate is particularly felt in cases of small business men who have lost their assets. Reference may be made to the case of a small flour mill owner of Delhi who lost his place of business as also the equipment during the riots. This victim, Jaswant Singh, had to be provided accommodation as also a new machine for rehabilitating his business. When the Commission intervened, a nationalised Bank which was already his creditor came forward to help.

An appropriate Committee may be set up in each area and expeditious steps may be taken to pay reasonable compensation in the manner indicated above. Liability has to be of the Delhi Administration to be borne by Union of India in respect of incidents at Delhi, of the Uttar Pradesh Government in respect of the incidents at Kanpur and so far as Bokaro is concerned, it would be the liability of the State of Bihar.

Perhaps it would be appropriate to liberally compensate in every case of business loss where the victim had a small business-say not exceeding assets of rupees fifty thousand and in a graded manner for higher categories.

A victim who has received compensation otherwise-as in a case of insurance-need not be compensated. Affluent business men who lost some commercial assets but have been able to make up the situation may not have to be compensated. This recommendation is with the intention of facilitating rehabilitation with a view to normalising the situation and Government would do well to keep that in view while giving effect to it.

16. Commission takes some steps for Rehabilitation

Though the question of rehabilitation of the riot victims was not within the strict purview of the references to the Commission, out of humanitarian consideration, with a view to easing the tension to facilitate the inquiry and for helping generation, and/or restoration, of mutual trust, the commission took certain steps at all the three places of inquiry. As a result of such steps relief and rehabilitation of the following nature has been secured :

A. At Bokaro and Chas:

- (i) Death compensation has been enhanced from Rs. 10000 to Rs. 20,000 and the additional compensation has already been paid :
- (ii) For many families who had lost the bread-winner, service for another member has been provided.
- (iii) Some of the victims who had lost residential accommodation on account of arson have been provided alternate residence:
- (iv) Some insurance claims which had been repudiated have now been entertained.
- (v) Bank facilities have been extended in some genuine cases :
- (vi) State Government has agreed to provide 1/4 acre of land for locating a Gurdwara demolished during the riots.
- (Vii)Death -cum-retirement benefits of several employees in public sector undertakings to their next of kin have been secured.

Letters from the State Government of Bihar in this connection are in Vol. II, Appendix 19 at pages 78-80.

B. At Kanpur:

- (i) Employment for some widow has been secured and/or processed.
- (ii) Banking facilities have been extended and insurance claims have been revived.
- (iii)Death compensation to next of kin not paid earlier has been arranged.

Letters from the State Government of Uttar Pradesh in this connection are in Vol.II, Appendix 18, pages 71-77.

C. At Delhi:

- (i) Accommodations for riot widows have been ensured through Delhi Administration ;

- (ii) Quantum of death compensation has been enhanced to Rs.20000 from Rs. 10000 and the same has been disbursed;
- (iii) Employment to some young men in the families where the bread-winner dead during riot has been secured;
- (iv) Banking facilities have been processed.

Letters from the Delhi Administration in this connection are in Vol. II. Appendix 20, pages 81-84.

EPILOGUE

As in nature, so in society nothing happens without a back drop. In some instances, the back ground is in bold relief, perceptibly clear and prominent: in others it is withdrawn and insignificant.

The November 1984 riots were no exception. As has repeatedly been canvassed by the State Administrations, events in Punjab including the Operation Blue Star and its aftermath within and outside the country had led to the generation of a peculiar mood among the vast majority of the people.

Perhaps the generated bias against the wrongdoers of Punjab incidents worked to play to the tune of the anti-social element in transforming exhibition of initial indignation into condemnable and beastly behaviour in course of the riots. The background afforded no justification for all this. The identification of every Sikh with the two assassins of Smt. Gandhi is an unpardonable mistake.

If, for instance, instead of the assassins being Sikhs they were Hindus, would the country men have behaved the same way ? If not, there was no justification for the riots. The riots have brought about a crack — nay, more than that — perhaps a cleavage cementing of which is posing a serious problem.

The Commission hopes and expects that every group within the Indian Society will soon bestow anxious consideration over the obstinate issue, carefully sift the events and experiences and appropriately mould its conduct again to join the national march ahead by forgetting the unpleasant episodes of the cloudy days and looking forward to bright sunshine ahead.

17. More Manpower and Reorganisation

The second terms of reference of the Commission is, "to recommend measures which may be adopted for preventing the recurrence of such incidents" that took place during November 1984 riots in Delhi and Kanpur as also within Bokaro and Chas Tehsils.

The Commission has found that the November riots occurred broadly on account of:

- (i) So far as Delhi is concerned, the total passivity, callousness and indifference of the Police in the matter of controlling the situation and protecting the people of the Sikh community within the Union Territory.
 - (ii) So far as Kanpur City, Bokaro and Chas Tehsils are concerned, delay in taking effective steps and the [police not being as effective as it should have been.
- (I) Delay on the part of the Delhi Administration in calling the Army to stand by and to aid and assist it for controlling the situation :
- (ii) Delay on the part of the District Administration in calling in the Army at Kanpur.

Improper assessment of the situation by the civil administration at all the places of inquiry and inadequate arrangements to face the challenging situation at each place.

Lack of control over the anti-social elements and allowing them to combine, form themselves into riotous groups and taking over control of the situation at Delhi for almost three days, at Kanpur for one and half days and at Bokaro-Chas for a few hours.

Identification without least justification of the entire Sikh community with the two assassins of Smt. Gandhi.

Before the Commission, the Delhi Administration took the stand that it had an inadequate police force; the Kanpur Distt. Administration took the stand that its police strength had been depleted on account of deputation of a sizeable part of it to Allahabad and Hindu Sikh riots being unprecedented, the police and the Distt. Administration was not in a position to comprehend the size and the nature of the riots that followed.

The Commission has found that the police at Delhi showed total passivity and callous indifference when called upon to perform its duty. The conduct of the Kanpur police though somewhat better, certainly failed to reach the professional standard.

At Delhi and Kanpur the respective administrations canvassed before the Commission that on account of the strength of the riotous crowds far exceeding that of the police, the police could not rise to the occasion and meet the situation. The Commission has not been in a position to accept this

stand as a sufficient cause for the conduct exhibited by the police during the riots. The ultimate conclusion of the Commission has been that what mattered were not the number but the will and timely action. At Delhi this appeared to be totally lacking.

Both at Delhi as also at Kanpur within the cities there are cantonments where Army units are posted. The plea taken by the Commissioner of Police at Delhi was that sufficient number of Army personnel was not available. It is a fact that several brigades from the neighbouring cantonments had to be moved there which took some time.

At Kanpur there was no necessity to move more Army men from outside but the U.P. Government as also the Distt. Administration of Kanpur took the stand that the strength of Army personnel available at Kanpur was not adequate. This aspect has also to be taken into account.

The number of law abiding people in the community is gradually getting reduced for reasons which are more than one. It is not possible for any community to have as many policemen as people in the community.

How difficult a situation of that type would be can be well imagined if India with a population of 75 crores of people would be required to have an equal number of policemen for the purpose of control. Then who will control the police will be an aspect for consideration. Methods of effective control with the minimum strength of the police have, therefore, to be found out.

Anti -Social content in the community is on the rise. One of the effects of modern civilization and particularly industrialisation, is the increase in the number of anti-social population. During any riot this action of the society jumps into the fray to fish in troubled waters.

Once a hostile cut burs begins and people become aware that there is a crack in the social order that is conducive to the expression of hostility, an interesting phenomenon takes place. A rash of hostile action appears many of them motivated by hostilities which are not related to the conditions or strains that gave rise to the initial outburst of hostility.

This building up effect in which individuals capitalise on the fact that an outburst has occurred, in a hostile crowd situation generally leads to riotous action. That is exactly what seems to have happened during October-November 1984.

The complaint of the victims that the men in the riotous crowds were not mournful but appeared to be in joyful mood and temper while engaging themselves in criminal activity supports the statement. Both effective and efficient control of the anti-social elements is necessary to keep the community on even keel and avoid recurrence of such riots.

More important than this and a lasting solution would be to render proper attention to the people at large which would bring them up as ideal citizens

trained to tolerate differences, prepared, to accept the philosophy of 'live and let live ', respect each other's religion and foster universal fraternity. Government would not be in a position to undertake the job of training everyone in the community and, therefore, it has to be a people's movement and the mass media has to be used in a proper way to fulfil this objective.

The forces that order the life of a small community make the policemen's task much easier instead of imposing requirements, the policemen has only to lubricate the mechanisms inherent in social relations and police action is needed only when the informal controls have proved insufficient.

The bigger a society becomes, the weaker itself policing elements are likely to be. In the first place, when people are involved with those whom they are unlikely to meet again, there may seem to be less reward for honest dealing and if one party feels that he has been cheated, there is a less chance of his being able to bring informal pressure to bear upon the offender.

Most contacts are impersonal and since the parties do not meet in other capacities, the informal controls cannot play so great a part. In the second place, in the larger community the man to man level for meeting does not take place and, therefore, personal relationship does not at all counts.

In a modern cosmopolitan city with a large population drawn from different communities with divergent attitudes, customs, habits and way of life there is no social cohesion. Great disparities of education opportunities and wealth exist.

The growth of population has made life competitive and there is constant clash of interest. In industrial towns peace is disturbed every now and then on account of continuous friction between employer and the workmen. The new generation have no acquaintance with the great traditions of India.

Cultural cohesiveness has become a myth of the past. Social control over the individuals is almost lost. In such a society every differences is likely to generate friction. Friction gives rise to clash unrest and disturbs social peace and tranquillity. The demand for police attention in such a society has, therefore, increased almost hundred-fold.

This problem is a universal one. Even in a country like England where freedom has prevailed for many centuries, the standard of living is fairly high, education is widespread, the country is not large in size, the population explosion is not unusually high and until only a few decades back economic prosperity prevailed, there has been a steep rise in crime rates.

Taking England and Wales together as shown in Ben Whitaker's. "The Police in society"(1979 Edn.), there used to be 1,00,000 crimes on the annual average between 1900 and 1919. By 1947 soon after the II World War, the rate of annual crimes had reached 5,00,000. By 1971, the figure touched 17,00,000 and by 1978, 26,00,000.

The crime digest shows that figure in 1983 was 31,00,000. As in England so in India, there is a menacing rise in crime rates. Many of these crimes have serious social impact.

From the figures quoted below (collected from the Delhi Administration) the position of crime rate at Delhi on annual average is not different:

Year	Murder	Attempt To Murder	Theft	Total Of All Varieties Of Offences
1960	57	42	5,525	10,289
1970	123	135	18,011	31,269
1980	186	264	22,260	37,586
1985	312	267	13,763	30,412

The Commission has elsewhere in this Report indicated the rise in the population of Delhi. When analytically compared it clearly appears that the crime rate shows as steep a rise as the population.

Delhi has been one of the world 's fastest growing cities. The annual rise on an average is about 5%. The city limits have also been fast expanding. As already noticed Delhi had 63 police stations and 25 police posts in November 1984.

Proposal for expansion was long pending but no concrete action had been taken. After the riots the inadequacy has been realised and for the present in a phased manner twelve new police stations have been sanctioned and by now all of them have been opened.

The Delhi Police requires both quantitative and qualitative expansion. In a traditional community the auto-lubricating system of policing works. Such is not the position in Delhi. The outlying and less populated areas require more of police attention.

The growing population justifies more of police personnel too. The entire Union Territory is getting urbanised. In another decade, or, at any rate by the close of the century, the entire Union Territory of Delhi is perhaps going to have a population of 1.5 crores. 150 police stations on the basis of one police station for a lakh of person may be the sound basis.

Under every police station there should be one or two police posts depending upon the local requirements. Where the area of the police station is compact and well-knit, depending upon past experience, one police station for 1 lakh or even 1,25,000 residents may perhaps work efficiently. Where the area is spread out but the population is not dense there should be a police station on the basis of either 8 sq.km. or population of 75,000.

Each police Station should have an Inspector as SHO as at present and there should be another Addl. SHO., 10 Sub-inspectors, 15 Asst. Sub-Inspector, 20 Head Constables and 100 Constables for every police station. These are details which have to be worked out by the Administration.

The posts of ASI and Head-Constables should be filled up by promotion from Constables and at the stage of recruitment of constables full attention should be given for recruiting people of physical ability, mental capacity, alertness, serviceability and the like. Exhibition of a pronounced sense of duty should be one of the qualifications.

The Inspector should be a person with leadership and capacity to rise to the demands of any occasion. He should be fit enough to ultimately bear the entire responsibility of the residents within his charge so far as law and order is concerned.

The functioning of the Delhi police requires change and improvement. It should have a Metropolitan city set-up and not a State set-up. In 1978, the system of Commissioner of Police was introduced with a view to giving it functional autonomy. But it has not worked up to expectations on account of multiplicity of authorities as also interference and pressure from different sources, particularly in the field of maintenance of law and order.

Though multifarious powers are vested in the Commissioner of Police even by statute, he does not have freedom to exercise his authority by taking independent decisions all by himself. Perhaps, if the Commissioner of Police enjoyed the freedom the riotous situation could have been averted or brought under control more quickly.

In the Union Territory the administration is headed by the Lt. Governor. There is a Chief Executive Councillor and there exists a Metropolitan Council. Matters relating to law and order are discussed in the Council; the Chief executive Councillor at his level also looks into the problems. The Commissioner of Police is subject to the administrative control and is answerable to the Home Secretary.

As already noticed by the Commission, very often or perhaps always the Home Secretary is a junior officer of the Indian Administrative Service while the Police Commissioner is a very senior officer of the Indian Police Service. This gives rise to a lot of administrative problems and embarrassment. In the Delhi Administration there is also a Chief Secretary.

Delhi being a Union Territory and being the capital of the country where the seat of the Central Government is situated, the Ministry of Home Affairs of the Union Government plays a considerable part in the functioning of the administration.

The agencies to oversee the law and order situation in the Union Territory thus appear to be too many and if the maintenance of law and order has to be made functional, the number of agencies should be reduced and the effective control should be left in the hands of the Police Commissioner and he should be held accountable to the Lt. Governor directly subject, of course, to the constitutional scheme of being overseen by the Union Government.

The problems of law and order require quick attention and the bureaucratic control has, therefore, to be reduced by accepting a functional approach and the personal responsibility of the Commissioner of Police as the administrative and functional head of the police force should be increased.

There is rapid expansion of residential areas within the Union Territory. Several new areas have been coming up like Trilokpuri and Kalyanpuri in the East District. Sultanpuri and Mangolpuri in West District. These new colonies bring in tremendous increase of population and require lot of police attention.

Not being fully developed areas for habitation there are several problems which would not exist in developed areas and in the absence of police intervention disturbed situations very often crop up. For policing in these areas special attention becomes necessary.

The Police Commissioner should be left exclusively in charge of law and order and should not be burdened with other duties like attention on dignitaries, of being present at the airport to receive and see off important persons from abroad visiting Delhi, attending meetings not connected with law and order, and the like.

For this purpose and other aspects which the Police Commissioner is required to perform either by statute or under administrative rules and directions, an Addl. Police Commissioner should be kept in charge. Every Range or police district should be in charge of an Addl. Commissioner and he should have full responsibility at his level for the maintenance of law and order.

Past experience shows that there certain parts where there is always smoke and fire is apprehended any time. That being the situation, greater attention should be given to those areas and the police should be called upon to play their role not only when trouble starts but throughout the year to ensure local coordination and elimination of sensitiveness and continued prevalence of normalcy.

The Addl. Commissioners at the Range level should have effective control over the DCPs below them as also the ACPs and SHOs. Apart from the hierarchical discipline, a moral force and impact should be building up to regulate the relationship of the police authorities.

There should be more frequent meetings between the Addl. Commissioner at the Range level and his officers up to the SHO so that every development of any consequence should be within the direct knowledge of the Addl. Commissioner. Such meetings where the problems are discussed would not only help briefing the Addl. Commissioner in every important matter but it would also help the SHOs, ACPs and DCPs to be aware of the problem as also the reaction of the authorities.

Keeping up such constant touch would generate a feeling of acceptance of the leadership of the Addl. Commissioner and a rapport between all the officers of the different grades and levels so as to bring about the right

atmosphere for effective working. The experience of 1984 riots shows that there was almost total lack of communication in many areas.

Though every police station had motor vehicles at its disposal which were fitted with wireless sets for contacting the police control room, there was very poor feeding of information and the higher officers who were away from the places of occurrence had no knowledge of the incidents. The Commissioner has found that this situation brought about a lot of difficulties in monitoring control.

A more effective system of communication should develop and the importance thereof should be emphasised so that it may not at all be overlooked at the appropriate time. Since the Union Territory is not a very large area and is smaller than many districts in the States, in the event of outbreak of trouble of any intensity, taking of rounds in protected vehicles, if necessary, should be introduced.

In service training should be insisted upon and made compulsory. It should be strict, practical and utility-oriented. Acquaintance with modern and up-to-date gadgets as also handling of new arms should be developed during such training. For that purpose Delhi police should have actually a model Police Training College as also a Police Training School.

Up-to-date facilities should be available in these institutions and greater emphasis should be placed on not only the essential training but also equipping the officers with developed means of control and policing. New techniques of controlling riots and the anti-socials should be brought honour to the police officers.

Frequent exercises should be conducted to test the efficiency of police men. All types of new equipment and weapons which are found suitable should be placed at the disposal of the police officers while discharging duty at sensitive points. The Administration must not grudge expenditure. Security is the sine qua non of good government and is also the foundation of all development.

The police throughout the country, and within the Union Territory of Delhi in particular are called upon to do a lot of miscellaneous jobs. It is a fact that during the British regime the police were an instrument of oppression of the colonial power and traditionally were loyalists of the British masters. When independence came, the police force in India practically became the servant of the people. Its task ceased to be that of ruthlessly maintaining law and order for the benefit of the foreign ruler.

While maintaining law and order as servant of the democracy, the police in free India have to be friends and guides of the people. They have to counsel for better and responsible civic life and have to monitor social activities keeping with the taste of the nation.

The police have not only to ensure punishment of offenders but have also to help live, guide and counsel the offenders so that today's offenders may be

good citizen of tomorrow. These are challenging problems and the police as a service have got to be tuned to these requirement.

Experience shows that places like Delhi and Kanpur should have adequate reserves not only of armed police but also para-military forces. Even the strength of manpower in the cantonment may require to be increased. Recent experience shows that the disharmony in society has become the order of the day.

Social tension has increased and every now and then problems of great magnitude occur which unless immediately attended to and contained are likely to have nation-wide repercussions. Like fire, unless controlled at the earliest, such disturbances are likely to spread and devour every part of the country. Without any loss of time additional force available near about may be commissioned and made effective.

The Commissioner agree with the principle accepted by the Union Government that the Army should not be deployed too frequently in civil disturbances and, therefore, more of CRPF and BSF personnel should be posted around Delhi as also cities like Kanpur. Riot squad with modern training should be available in riot-prone areas.

The beat system should not only be re-introduced but strengthened. Under the direct control and supervision of a Sub-Inspector attached to the police station, two or four constables in a group and properly armed should be on their regular beats. Several offences take place in broad day light.

Taking advantage of the fact that the male member of the family is an office-goer, even in crowded areas where there is a lot of movement serious crimes are committed. Beat system, therefore, should not only be resorted to at night but in certain areas it should be continued even during the day. The Constables on beat duty should be kept under watch and there should be proper monitoring.

The Commission has recommended separately for building up of a civil protection force in every area. The beat constables must develop proper rapport with them so that they gather information of incidents taking place in their areas and with the help of the local residents they are in a position to exercise their authority in an effective way. The information so collected should be passed on to the police control room in due course for such attention as the information may deserve.

At the police control room a computerised system should be introduced and a set of capable people competent to give instructions and directions must always be available to immediately react to information received from different areas.

A squad should be available at the police control room with proper transport arrangement to reach any support without loss of time to meet any emergency. The police today are called upon to discharge very hazardous

jobs. In the seventies, as Whitaker mentions, on the average 700 policemen per year received injuries upon assault by the people in England and Wales. In India the figure must be very high.

In recent times, hundreds of policemen are killed while engaged in discharging duty. One of the demands of the police everywhere is provision of better conditions of service in recognition of their occupational hazards.

The Commission is inclined to agree that there is merit in the stand and Government should consider this aspect favourably so that a better outturn of performance can be obtained.

The Commission is of the view that to keep up the efficiency of the Delhi Police, provision should be made to transfer officers of all cadres of the Police Service excepting Constables, Head- Constables and ASIs. In the case of these three categories, transfer should be permitted only when delinquency justifying posting out is established.

In order that transfers may be feasible, steps have to be taken to change the Service Conditions and perhaps a combined card for the police in the Union Territories may be made. In order that the national capital may have an efficient, effective and model police force, good officers from the State cadres should be brought into it either on deputation or on permanent basis.

The police should enjoy a considerable degree of public confidence as also a measure of real popularity. As Dr. Michael Banton has pointed out :

“A policeman is a kind of professional citizen, administering the moral standards defined and accepted by his community... He earns public cooperation and esteem by the manner in which he exercises good judgement in performing his duties, and the foundation of his good judgement is an awareness of the public’s point of view.

He is a Defender of the Peace, more than an Enforcer of the Laws, possessing authority as well as power. His authority gives him the willing obedience of the public, thus including a moral element which compels obedience which is not necessarily rightful...

He will suppress his personal feelings in disintegrating troubles to identify with his Department if it is committed to professional policing and has a morality of its own. His role should be based upon the moral authority of his office rather than its legal powers. ”

This would be possible only if the police are free from political interference. Government must realise that the police are meant to serve the community and are not intended to be used for serving the political cause of the party voted to power.

The delinking must take place so that the morale of the service may increase and the police man may become and remain accountable for discipline of the force to its authorities and to no other agency.

Better control over anti-social elements is an absolute necessity. Surveillance over bad characters and anti-social elements in Delhi is very out-moded and ineffective. Though history sheets are required to be maintained police-station wise and each District is supposed to keep a watch over the bad characters living within the district, the system has remained ;more on paper and there is hardly any effective surveillance.

Many of the bad characters live in one district and operate in another ; others even live in the neighbouring States and taking advantage of the geographical location they find it easy to operate here. There are several known sensitive spots where almost every day there is some incident.

Surveillance at the police station level is totally ineffective when the anti-socials operate within another police station. The anti-social also keep changing their residences with a view to avoiding the police eye as also for exploring new areas of exploitation. In such circumstances unless control is centralised it is difficult to meet these situations. The police should try to keep the capital of the country free from anti-social elements to so far an extent as possible.

Real and adjudged bad characters should be extended from the capital by appropriate legislation and by exercise of statutory authority. Instances where the police are found to have joined hand with anti-social elements should be drastically dealt with and no mercy should be shown to such police officer—high or low—and repeated conduct on more than one occasion should bring about dismissal of the police officer from service.

The Commission has found several instances of police joining hands with anti-socials to be more or less true and its Investigating Agency has also recorded similar conclusions. The reputation of the police at the national capital cannot be of such low order.

The Commission is alive to the situation that the police are often accused of aggravating and inciting tension. These accusations are often untrue ; however, they probably arise because the police are necessarily constantly involved in incidents relating to public order.

Ordinarily, they will be blamed by certain segment of the society for what they have done ; and they will be blamed by another segment for what they have not done. Yet, there are occasions when both or all segment of the society does join in recognising their good and timely act.

18. Voluntary Social Agencies

In the rural areas as also small towns local residents organise effective units for maintaining the peace in the area. When there is a problem of law and order, these units on their own, display their strength and play a powerful role in maintaining normalcy so that nothing happens or in case there is some disturbance, in restoring peace.

Very often, the local police seek their assistance and utilise their services. Being people of the locality they know the exact sensitive area, issue and persons causing the trouble which disturbs the peace.

The Commission found that during the riots at Delhi, in some of the residential colonies, the local residents had formed similar combines and these succeeded in resisting successive riotous groups from entering into the areas.

Often the riotous crowds were greater in number but seeing the local combine they feared to risk a confrontation to be followed, if it became necessary, by a skirmish.

In the areas where such local combines had been voluntarily formed, no police or Army assistance was necessary and evidence shows that no incident of any type took place.

After the riots, the Delhi Police on experimental basis picked up some members of the public on whom powers of the police were conferred and they were required to assist the police. It is said that the experiment has been successful. The local administration should encourage local combines of the type formed during the riots to come up in every convenient area.

It should be a combine of able-bodied people drawn from residents of every community inhabiting the area and have some respected people of general acceptance in it. The Administration should recognise such a combine on local basis, encourage the same and if necessary, nourish it casually.

This local organisation should be totally free from politics and maintain harmony and friendly relations with similar local organisations around. Apart from operating as a powerful defensive force at the time of disturbance of the peace, this local organisation can be utilised for various beneficial purposes.

The Commission commends to Government that sincere efforts may be made to form such local organisations on experimental basis without loss of time.

City life, exclusive life-style and outlook based upon individualization are factors which are likely to obstruct easy formation of such combines everywhere but if proper motivation is given and due attention is bestowed, such voluntary combines shall soon come into existence and provide a convenient base for community participation in maintenance of social tranquillity.

19. Education

The recommendations heretofore made are for provision of physical force to assist the maintenance of social equilibrium by avoiding riots or quelling them by use of force. For civilized human society in a Welfare State some method other than use of brutal force to keep the society on even keel must necessarily be thought of.

Aldous Huxley in his celebrated book "The Human Situation", wrote:

"the end of human life is to realize individual potentialities to their limits, and in the best way possible; and to create a society which makes possible such a realisation. We see that in very many cases, the effort to raise human quality is being thwarted by the mere increase of human quantity; that quantity is very often incompatible with quality.

We have seen that mere quantity makes the educational potentialities of the world unrealizable. We have seen that the pressure of enormous numbers upon resources makes it almost impossible to improve material standards of life, which after all have to be raised to a minimum of any of the higher possibilities have to be realized.

Although it is quite true that man cannot live by bread alone, still less can he live without bread; and if we simply cannot provide adequate bread, we cannot provide anything else. Only when he had bread, only when his belly is full, is there some hope of something else emerging from the human situation."

The belly has to be full, otherwise physical existence would be in jeopardy. But without anything more, that would be animal living. Homosapiens are endowed by Nature with destructive traits and qualities. Man has infinite mental capacity and he is capable of having attainment in his own person of the whole range of human potential. The good of the individual has to coincide with the good of all others and of society as such.

Karl Marx was right when he raised the slogan 'from each according to his ability, to each according to his needs.'

Through good education, imparted at home, in the education institution and in the social sphere, the true element is every man has to be kindled. Today's home, to a great extent, had ceased to offer any useful schooling.

The child begins life in a small environment—for the initial few months the mother, perhaps a female attendant in well-to-do families, and occasionally the father, grandparents and some other close relations within a small part of the house constitute its environment.

Very young though, the child has still immense human capacities and starts its process of silent learning from the environment. As it grows, the environmental sphere expands. In the first three or four years which are

indeed the crucial years of its life, the child is ordinarily in the family atmosphere and elder members of the family, the mother being the first among them, are the people who play the role of teachers.

First impressions last long. The foundation of growth in life with growing age is laid in these first few years in the back drop of the family environment.

Today the family environment is in bad shape. In a large number of families, the mother takes to employment ordinarily to support the family. Often, the justification is her anxiety to have economic independence.

The father is fully occupied in collecting sustenance for the family and has no time to bestow upon the child. If the mother is not away from home being in employment, she keeps herself occupied otherwise at home and is either not in a position or does not feel called upon to give constant company to the child.

The home- schooling for the child is thus totally unattended. The unlimited capacities innate in the child do not get the outlet to open up and become functional in a properly guided way.

Around the age of 3 or 4, the child starts going to school. More than eighty percent of the children in India live in rural areas. The primary schools do not provide the requisite environment for learning. The teacher is often ill-equipped and does not have the capacity to attend to the tender mind.

Very often the inquisitive search of the young beginner is visited with punishment and this has the effect of closing the half-open mental door. Very many schools have either no teachers or inadequate teacher-strength. In many educational institutions the teacher's representative plays the role of the teacher.

Occasionally different people—very often without the necessary qualification—play the proxy depending upon availability. The primary stage is the foundation-laying period in the life of the young one. At this stage, the young mind is totally receptive and open to moulding.

Take the case master earthen pot maker. He prepares the clay after removing every rubble; upon mixing requisite quantity of water he makes quality paste and from out of it, his deft hands make water jars. After the mould is given and the desired thing is given proper shape, the same is burnt and is ready for use.

Every customer before purchase gives the jar a test by filling it with water. If it is found to be leaking, the jar has no market and it is condemned. The craftsmen finds that he had failed to notice the presence of rubble in the clay and when that came on the jar and remained, in the process of burning a crack developed and water leaked from that point. If the rubble had been removed when the clay was prepared into paste or when the jar was made ready but had not been burnt, the same could have been removed and with a

bare touch with a little pressure, the deft fingers would have set the situation right.

The teacher, is it at home or at school, is expected to play the role of the craftsmen. The child is at the clay-paste stage. It comes to school for removal of rubbles. If the teacher fails to detect the presence of the rubble and have it to be removed in the process of schooling, the young one in due course would enter into society with the defect. Society does not have the test undertaken by the customer prior to the purchase of the jar. The net result, therefore, is the introduction of an undesirable person into society.

When the country's future citizens are in the making, the teacher has no personality of his own to place before the young ones to be emulated. Unless the teacher is an embodiment of human virtues and by allowing exposure of himself and his qualities to the young students he is able to act as a model for them to imbibe, real primary schooling is not imparted.

At the primary stage foundation of the life's course has to be laid. Lessons through story-telling relating to indisputable human qualities like love for truth, respect for elders, tolerance of all, consideration for everyone, kindness to animals, affection for fellow-beings, a sense of patriotism, firm faith in God and the like help easy pick up and assimilation at this age.

The child has the natural instinct of absorbing what is told to it and since it has an impressionable mind, pick up is both easy and lasting; special attention should be given at that stage to ensure a neat and clean environment and allow total exposure of its mind. Article 45 of the Constitution envisaged that by 1960, full and compulsory education for all children until completion of the age of fourteen years should have been provided by the State.

This has not yet been possible in spite of serious and sincere attempts of Governments. It is difficult to visualise an India of some future date where every citizen would have had schooling up to the age of fourteen. Even if that type of education still remains a far-cry, real emphasis should be on the primary stage.

No education can be said to be appropriate unless it is grounded upon a moral base. The Central Advisory Board on Education as early as 1944 recommended :

"While they recognise the fundamental importance of spiritual and moral instruction in the building of character, the provision for such teaching, excepting in so far as it can be provided in the normal course of secular instruction, should be the responsibility of the home and the community to which the pupils belong. "

The University Education Commission (1948-49) observed :

"Religion is a permeative influence, a quality of life, an elevation of purpose, and to be secular is not to be religiously illiterate. It is to be deeply spiritual and narrowly religious..."

The attempt to make students moral and religious by the teaching of moral and religious text books is puerile. To instruct the intellect is not to improve the heart... Our attempt should be to suggest and to persuade, not command or impose. The best method of suggestion is by personal example, daily life and work, and books read from day to day."

The Commission was of the opinion that 'inculcating social, moral and spiritual values indispensable for making good citizens should be the obligation of the State.'

The Secondary Education Commission (1952-53) believed that religious and moral behaviour spring from the influence of the home, the influence of the school, and the influence exercised by the public.

These, however, can be supplemented only to a limited extent by properly organised moral instructions dwelling on the lives of stalwarts of all times and of all classes. It pointed out that one serious defect in the school curriculum is the absence of provision for education in social, moral and spiritual values.

The Education Commission (1964-65) recommended that conscious and organised attempts should be made for imparting education in social, moral and spiritual values with the help, wherever possible, of ethical teachings of great religions. Dr. Rabindranath Tagore wrote in Bodher Sadhana : "We must constantly remember that neither the education of the senses, nor the education of the intellect, but the education of the feeling should receive the place of honour in our schools."

Moral values particularly refer to the conduct of man towards man in the various situations in which human beings come together. It is essential that from the earliest childhood moral value should be inculcated in everyone. The home has to be influenced to begin with. Habits, both of mind and body, formed in the early years at home, persist and influence our life afterwards.

Good manners are a very important outcome of moral education. It is not unusual that when a people attain freedom suddenly after long years of bondage, they are inclined to become self-willed, arrogant and inconsiderate. In such situations, good manners are easily set aside and young people tend to express the first flush of freedom in license and rowdism. A look at Indian society today shows how prophetic was the words written two decades back.

The importance of good manners cannot be overstressed. These impose proper restraint on the person and take away harshness in speech and rudeness in behaviour. Good manners are often said to be the oil that helps to keep the machine of human society running smoothly.

Good manners have to be restored to the living process in order that life may be graceful. By example and precept only good manners can be inculcated.

Just as moral values regulate the relation between man and man, so do spiritual values regulate the individual's relation with himself. As has been rightly pointed out : "The individual is not only a body : he is also a soul. He does not live by bread alone: he wants inner peace and happiness. If he loses all spiritual values, he would no more be at peace with himself. It is necessary to have faith in something beyond the flesh, some identification with a purpose greater than oneself in order to achieve mental equilibrium."

Patriotism should have the primary place in the catalogue of spiritual values. India had been conceived as an organic entity when our forefathers carried on the freedom struggle. They suffered all sort of harassments in the hands of the British rulers and many made the supreme sacrifice of parting with their lives for the cause of the mother-land.

The picture of India as a living mother must have to be drawn in the mind of every citizen of this country. He must be taught to accept the position upon true conviction that for protecting the integrity of mother India, it is the duty of every citizen, if necessary, to sacrifice his life. Patriotic literature must form part of the curriculum in schools and colleges.

Education should foster a burning love for the mother-land together with an ardent desire to serve one's fellow beings. Education should leave the indelible impression on every one that anything that helps man to behave properly towards others is of moral value and anything that draws one out of himself and gives the inspiration to sacrifice for the good of others is of spiritual value. A system of education fails to teach this aspect is not worth the name.

The greatest of today's needs for India is to bring forth into action our capacity to hold together as a nation in the midst of diversity of language, caste and religion. Our unity has to be based upon a conscious common cultural heritage and acceptance of a common goal to reach. As long as we were fighting the freedom struggle, a common ground overcoming the demarcating lines of differences had been evolved and the common goal of turning the foreign ruler away and freeing the mother-land from the shackles of the bondage held us together.

Once freedom was achieved, the cohesiveness of purpose was gone and no new goals attracting the imagination and spirit of the common man had been set to keep us together. Maintaining freedom, once it is won, is indeed a challenging job. That is not the exclusive concern of the Government of the country. That is the return every citizen who breathes the air of freedom has to make.

The school programme has to be designed to awaken in every student an awareness of national integrity, community living, fostering of the democratic spirit, respect and tolerance for every religion, universal fellow-feeling and a

genuine liking for Indian's. Emphasis on development of these aspects while selecting text book material, in class teaching as also during extra-curricular activities, must be placed. Care should be taken to find out teachers who would by their living method present an ideal model for the students to emulate.

The Seventh Plan which closed with 1985 had indicated that attention should be paid to all young children during their crucial development years up to the age of five. The early childhood stage is the period of maximum learning and intellectual development of the child and hence of great potential educational significance. An evaluation must now be made as to how much of the target set in the Seventh Plan has been achieved.

In the Constitution the makers very appropriately adopted the position that India would not have any State religion. In a country with segment of the population following almost every religion known to the world the position could not be anything different.

This constitutional philosophy necessarily led to incorporation of provisions contained in Articles 25 to 30 under the heading "Right to Freedom of Religion." Article 25 guarantees to all people's freedom of conscience and the right freely to profess, practice and propagate religion subject to the hedging provided therein. Article 28 envisages that no religious instruction shall be provided in any educational institutions wholly maintained out of State funds. Dispute arose as to what exactly was covered by the phrase "religious instruction" Courts soon rightly drew the distinction between religious and moral education.

They held that moral education dissociated from any denominational doctrine did not come within the prohibition. They also held that academic study of the teaching and philosophy of any great saint of India such as Guru Nanak or Mahavira and the impact thereof on the Indian and world civilizations could not be considered as religious instruction. This interpretation was not taken into account and properly utilised.

In the post-constitutional era, all books intended to be read by young people in India got eliminated of reference to religion and religious leaders. Today Rama, Krishna, Mohammed, Jesus, Gautam and Mahavira have become strangers to young people and in them these names create no reaction except recalling to their mind persons bearing such names within their ken. All religions accept certain conduct as virtuous and emphasize upon man maintaining the unseen link with his Creator.

To emphasize these as a part of the education program cannot hit the constitutional mandate. On the other hand, without fruitful lessons of good conduct and imbibing some or all of them as part of life's process, no education would be useful and no life can be successful.

Into the reading material and the curriculum lessons of good living, lives of great men, a sense of idealism and faith in an unseen superior force must get

restored if the quality of life has to improve. Scientific temper as contemplated in Article 51 A(h) of the Constitution certainly has its place.

But beyond all sciences, man must repose his ultimate sense of confidence in an unseen force. A civilization with philosophy that what is not seen is not acceptable suffers from inadequacies and that is what has happened to the western civilization today. Several visible phenomena science fails to explain: yet they exist and even regulate the course of human life. Divinity is not any religion, it is the foundation of all religions and is perhaps the life force of creation.

Every person in the community must take lessons in divinity (not as part of any known religion) and sincerely attempt to establish link with his mentor. Today's education provides a large amount of knowledge but not the requisite wisdom. When knowledge is transformed into experience wisdom comes. What is, therefore, necessary is to provide opportunity at every level to students to transform their knowledge into a series of experiences—exclusively their own. When this situation comes, the sense of a surcharged feeling comes and leaves an unforgettable impression on the mind.

Education must help build bridges between art and science: between objectively observed facts and immediate experience: between morals and scientific appraisals. There are all kinds of bridges to be built. Once a matter is read and assimilated, it must be something more than what has been read it has to become a part of a living experience—represent a bridge to cross-over to the other side for exploring the great empire that lies beyond.

Education must assist total development of the personality latent in every man and give him a personal philosophy totally his own. While such philosophy should be generally in tune with the national ideal and philosophy, it must have touches purely personal to the person whose philosophy of life it is.

Education must generate a balanced outlook of life in keeping with the spirit of the nation as also the national goal. It must inculcate in every person a sense of respect for human life and other rights of citizens. Gandhi, father of the Nation, aptly indicated that no man has the right to destroy anything in this world which he is incapable of producing. Since man cannot create human life, what right has he to destroy it? Great emphasis must be laid on formation of character and due stress be given to obtaining of practical experience of knowledge. Once these are done, the desired transformation is bound to come.

Several generations educated on lines different from this method have come into Indian society since independence. Their reformation would be an uphill task. It is perhaps expedient that attention is bestowed on the new generations. Once the proper spirit is generated, every man's conscience will do the policing and no outside agency will be required. The policing by conscience will be unfailing and there would be no apprehension of a repeated exhibition of sluggish and betraying conduct as appeared during the 1984 riots.

20. Evolving a Common Code of Conduct

Writing the Preface to Professor Weeramantry's "The Law in Crisis", Lord Denning has said:

"Civilized society appears to be disintegrating; Minorities openly defy the law for their own ends. Terrorists seize hostages and threaten to kill them. Workmen set up picket lines outside power stations and threaten to bring the country to a standstill; students occupy buildings and prevent the running of their Universities. Only too often their threats succeed. The peaceful majority give in. They surrender.

Moral and spiritual values too appear to be at low ebb. The sanctions of religion have lost their force. Schools and teachers take much interest in social sciences. They explain how people behave. They seek to help the misfits. But they do not set forth standards of conduct. They do not tell people how to behave."

Who must then tell the people how to behave? Scriptures have prescribed the codes of conduct. Different religions have different scriptures but interestingly most, nay, all the religions harp upon the same virtues for adoption in life and commend acceptance thereof.

Like all the rivers that originate from one source carry the same water, all religions originating from Divinity carry essentially the same message. A code of conduct acceptable to all religions can be evolved without much difficulty and the same should be the code for the Indian society and every Indian must be required to fill in line with it.

Social conduct is not being enforced today on account of failure to identify what exactly it is. Again, the moral fabric having disappeared, this censure of either of individual or social conscience does not operate.

The law still continues to be different on many aspects from what social conduct would warrant it to be and even in the covered field, enforcement is poor and ineffective.

The code of conduct (including decency) should be universally taught—at home, in school, in the establishments—private and public—and everywhere in the community. Awareness is the first step. Most people would be abiding. Those who fail should be subjected to enforcement.

Without community discipline, no national character can be built up. And without national character, a nation cannot indeed progress.

The mass media has a large role to play in this regard and the commission proposes to deal with the same next.

21. Mass Media

The Commission proposes to briefly deal with five agencies of mass media in chronological order on the basis of their period of introduction into society:

Books, magazines, periodicals and journals;

Newspapers;

Cinema;

Radio;

Television.

Mankind has another fundamental need beyond the physical requirement of food and shelter —the need to communicate with fellow human beings. The urge for communication is a primal one and in our contemporary civilization, a necessity for survival.

Nature has endowed man with the capacity of benefiting from the experience and knowledge gathered by others. Beginning from the primitive man's discovery of fire to the latest scientific inventions based upon years of research, the direct experience of the people that pioneered the events are being made available through books and other literature in writings of others. Starting with palm leaves to write upon with the help of iron nails, man has reached refinements of great degrees.

Writings cover a wide range — prose, poetry, essays and the like — and are the carriers of human thought. Government of the day would find it difficult to control and regulate literary activities though it can certainly motivate the authors, poets and literary critics to ordinarily follow the approved track adopting the national code of conduct of decency and ethics which of course eulogise patriotism shun violence, condemn terrorism and the like. They should accept the obligation of not disturbing the national ethos while giving expression to their thoughts.

A good and well written book generates the true spirit when properly read and assimilated. Some good books leave indelible impression that last for life. Such books should be put into large circulation and some of them have to be made a must in every curriculum and later picked up as life's constant companions.

These books when read and re-read bring in new openings of human thought and help revelation of the real truth. Every author while enjoying full liberty to express his genuine thoughts, should have the obligation to keep up to the approved standards of decency and not to affect the social ethos of the nation.

Newspapers are a very powerful media for formulation of opinion and in the matter of educating the people.

By circulating information about the incidents taking place all over the world they help the reader in keeping himself informed. They also help the reader to have a formulated opinion about problems he faces or is likely to face. The spying eyes of the newspapers very often help the truth about many public issues being discovered.

Except for boozing or under-rating, newspapers do perform a great social service. In a free country with independence of Press, this media plays a great role in formation of public opinion so much necessary for the proper functioning of the democracy. Newspapers with all their freedom otherwise must also remain bound by the code of national conduct and decency. While observing these, they must publicly support them and create the taste for their universal acceptance.

Everyone in the country — be it Government or the opposition, employer or employee, teacher or student, business man or cultivator — must accept the code of conduct and look for enforcement of his rights only after he has performed his duties. India, the great country of ours, belongs to all of us and every citizen is entitled to live here assured of all the rights.

The Press must take upon itself the task of creating the true national spirit. When it comes to the question of national interest, everyone, including political parties, must keep the issues above personal, parochial, sectional or party interest. In India, unlike some other countries, the Press is not State owned though some news agencies are.

The national code of conduct and decency should be accepted by the Press and enforced through the Press Council wherever necessary. The Press should not even grudge a suitable legislation, if thought proper.

It may be reiterated that the national code should be above party considerations and every-one, irrespective of political affiliations, position held and other considerations, should be bound to adopt and follow the same.

A powerful moral force should be built up which no one — low or high — would dare ignore and exhibit contrary conduct.

The cinema initially introduced in the thirties of this century as silent motion pictures, has expanded into big business throughout the country. Once confined to cities like Bombay, Calcutta and Madras for the purposes of production of cinematograph films, scores of new centres have now developed and today the annual outturn of production in every language runs into dozens of films.

Advancement of science has brought several new techniques into the industry. In view of the large profits this business started returning, it attracted many talented people in every direction of it and exhibition halls spread into

every nook and corner of the country. The cinema soon pushed out the theatre and the stage is finding it difficult to maintain itself today.

The film industry all over the world is a very powerful one —more so in the field of influencing the masses. Perhaps till now in India films continue to be the largest entertainer.

The impact of the cinema is both quick and deep on the viewer. Matinee idols grow in the film world and they introduce new fashions in looks, in makeup, in dress, in walking style and the like. Overnight hundreds of thousands of people adopt these innovations and new fashions become current and spread. The Hindi film *Sholay* introduced a new style of assault. In several parts of India soon after the exhibition of this film the manner of assault also changed and adopted the film style.

The impact of the cinema on the mass mind is indisputable. though films many good things can be brought home to millions of cinema-goers and without any additional labour, expense and involvement of time the desired switch over can be achieved. Instead of any useful contribution from the films, society suffers today from the adverse effects.

Most of the films exhibit pictures of chaotic living, feuds and challenge to social order. Action stories narrating disorderly lives, criminal activity, killing and rank terrorism become box office hits. Film Censoring has been debated over four decades. Government have appointed Committees and set up expert bodies. Many have a feeling that censoring is not on proper lines. Appropriate guidelines are to be fixed up and the same have to be strictly enforced. Entertainment need not be the sole consideration of the film industry.

Education along with entertainment is a better goal. Lives of great men, stories with a lesson to learn, portrayal of patriotic acts and heroism, exhibition of character, victory of virtue over vice and the like can very usefully form the subject-matter of films for exhibition to the Indian community. Government may sponsor encourage films on these lines. No film without an ultimate moral to tell or exhibiting vandalism and meaningless killings should be allowed to be screened. Writing about violence in cinema, Philip French wrote in "The Twentieth Century" (Winter 1964-65):

"One can have lived the quietest test of lives and yet feel that through the cinema one has looked upon the face of war and civil disruption, participated in bank robberies and murder, witnessed a hundred gun-fights and brutal assaults.

Of all aspect of the cinema, the treatment of violence is perhaps the most complex, controversial, and in many ways central. It is only equalled as a controversial issue by the offer closely related question of sex. The extreme views of its effects are on the one hand those of certain social observers who see it as one of the principal causes of crime and delinquency, and on the

other of those psychologists who believe that it plays an almost essential cathartic role in diminishing aggression".

When society is at a breaking point it should be the obligation of Government to ensure that nothing is done which adds to its woe. There is perhaps a lot of pressure from the industry in support of the demand for more of freedom and less of regulation.

To concede freedom and allow the industry to earn profits by producing and exhibiting box-office hits regardless of social suffering as a direct out-come thereof and invest endless energy and resources to eradicate the effect by stamping out the same are meaningless purposes.

The wrong side easily picks up and the filth introduced by the undesirable films will require herculean efforts for countervailing the situation. No community can tolerate such a position. This is an aspect which should engage immediate attention of Government.

The remaining two mass media agencies — so far as India is concerned, totally controlled by the Central Government — are the All India Radio and Doordarshan.

The All India Radio is just completing its 50 years of its existence. Since independence there has been considerable expansion and the Radio has come closer to the common man. Progress of science has helped manufacture of cheap receiving sets.

Government have also abolished the licence fee for sets with single or two bands. Such receiving sets are now found everywhere. With the increase in the broadcasting stations(while in 1947 there were 6, in June 1986 their number is 91), the entire country has now come within the reach of All India Radio.

The programming pattern must now change. It must take over the responsibility of feeding the proper material to the young minds. In the recent past the commercial service of All India Radio (Vividh Bharati) has helped spread of cine music and most of the people possess a receiving set to tune in to such music.

Some music is perhaps understandable but both the regular as also the commercial service must take upon themselves the responsibility of covering nation building programs. For the last one year or so, there is some move in this regard. There is some emphasis on national integration: some on social welfare and on depiction of sacrifices for good causes.

The Commission was told by the Director-General of All India Radio that All India Radio programming is done to meet the motto of "inform, educate and entertain". The commercial service emphasises entertainment. The regular service handles information and education. Education is all important provided it has the proper orientation. Every item should have the aim of igniting in the

listener either one or more of the following — a burning sense of patriotism, of holding the nation and the country together, of building up character and of improving the level of the life of the individual and of the society.

All India Radio enjoys the position of monopoly. It does not have to cater to the demands of the listening public; on the other hand it is in a position to mould their taste. This need not be done suddenly and in a perceptible manner. On the other hand, the designing hands of the experts can slowly tune the listeners' mind to the new pattern All India Radio develops.

Doordarshan is the latest in the field. The first centre opened in Delhi in September 1959. Today there are 16 programming centres and 174 transmitting centres and as the Director-General of Doordarshan claims, coverage of Doordarshan network is of 250 million people living in different parts of the country.

Television has perhaps the greatest of influence on the viewer. While seeing a film at an exhibition hall could be a selective act and children could be left behind if the film to be seen was not suitable for them, which do not apply to the television. Usually the television is placed either in the drawing room or the bed room of the house where conditions permit that type of living.

Otherwise the T.V. is found in the one-roomed apartment used by all the members of the family including children. Almost similar is the case even in a two-roomed apartment. The televisions are more seen by children than elders. Long before the office-goer father returns home or the mother is released from her household activities or she too returns from her office, the children gather before the T.V. and start witnessing the programs.

A well-placed father told the Commission in casual conversation that T.V. has distracted the attention of the children from studies; another, this time a University Professor, remarked that if the children showed half the sense of regularity they exhibit for the T.V. programs in regard to their studies, they would do an excellent job.

The Commission does not claim any expertise on the subject now being dealt with but the evil effects of T.V. viewing on a young mind required to be indicated. In the United States of America this aspect has been examined on more than one occasion. T.V. came to the States at least one score of years before it appeared in India.

Some of the major researchers had indicated that there existed a strong relationship between filmed violence and human behaviour. Earlier the U.S. Senate Committee in its interim report in 1968 had come to the same conclusion :

"A relationship has been conclusively established between televised crime and violence and anti-social attitudes and behaviour among juvenile viewers. Television programs which feature excessive violence can and do adversely

influence children. Further such adverse effects may be experienced by normal as well as by the emotionally disturbed viewers."

Dr. Albert Bandura of Stanford University and Dr. Leonard Berkowitz of Wisconsin University made deep studies on this subject and their report shows that normal person who see violent films exhibit violent behaviour and that violent presentation can induce aggressive behaviour on the part of any one. Violence in films is most dangerous to young children. The National Commission on the Causes and Prevention of Violence which conducted an in-depth investigation of violence on TV concluded thus :

"The preponderance of the available evidence strongly suggests, however, that violence in TV programs can and does have adverse effects upon audiences—particularly child audiences. TV enters powerfully into the learning process of children and teaches them a set of moral and social values about violence which are inconsistent with the standards of a civilised society."

From the U.S. Congressional Records the following proceedings may be usefully extracted :

"TV's ability to influence the behaviour of its viewers can hardly be disputed. Advertising firms spend 2½ billion dollars a year on that assumption. The high paid corporate officers of the network enthusiastically agree with them : yet they react with feigned surprise when any one suggests that their programs on violence influence young people.....By the time the average American child reaches the age of 15, he has witnessed 18,000 individual murders on the TV set. This does not include the beatings, stabbings, muggings, rapes and other forms of mayhem connected by our image makers in the TV film factories."

Then came the report of the Surgeon General Commission which attempted to minimise the baneful influence of TV. The conclusions of the report were challenged on many scores. Congress-man John M. Murphy referring to that report said :

"They (Congressmen) were deeply convinced that the constant display of violence on the news media has serious effects on the young : that children and teenagers become convinced of the proposition that might constitute right : that law can but be enforced by a pointed gun, a knife or a fist."

Though the Surgeon General Commission reported a modest association between viewing of violence and aggression, the general view in the U.S. is that violence on TV has brought about positive increase of violence in American society. A major complaint in U.S. today is that the mass media conditions children to accept violence and proper solution to human problems.

As already pointed out, TV came to the U.S. about 20 years before it got into India. Economic affluence has helped TV to find its way into almost 98% homes in that country. Though it will take a good number of years for TV to

spread to that extent into Indian homes, the rate of expansion today is quite rapid. With the fall in TV price, abolition of licensing and increase in imagination catching programs, TV would soon become a common man's possession. The idea of separating children programs and making them violence free is an impractical one. Children cannot be kept away from the programs and in fact, as already stated, they are more punctual than adults in viewing programs.

Television has, therefore, to shun violence and refrain from abusing the young mind. Today one of our greatest problems is violence in society. Should Government spend money for exposing the young mind to imbibe violence? Not attending to the youngsters in the past has brought the community into the low level of today.

Again, taking advantage of the Government monopoly, if TV pollutes the young mind of today, tomorrow will be darker and terrorism which we dread today will become the order of those times. The Commission had occasion to point out the Director-General of Doordarshan about a commercial serial on the TV entitled 'Target' which was out and out violent. Perhaps, the item was discontinued but the Commission had been told that it was a commercial program.

For the viewer's commercial or non-commercial classification hardly matters. The Government agency must take great care to abjure violence. The Commission is of the view that in the face of the Article 51A (i) of the Constitution requiring citizens to 'abjure violence', public exchequer cannot be utilised for spread and teaching of it. This must deserve immediate attention. TV provides immense possibilities for training the young mind in the appropriate directions. All attention should be devoted and fixed in that direction right now.

In a world where standards are falling, institutions are collapsing and human qualities are vanishing, everyone in society has to put in great efforts in the right line, first to stop the downward trend and then, raise the same up. Every Indian must feel proud to have been born in India and remember what the great German Scholar Max Muller said of India:

"If I were to look over the whole world to find out the country most richly endowed with all the wealth, power and beauty that nature can bestow — in some parts a very paradise on earth — I should point to India. If I were asked under what sky the human mind has most fully developed some of its choicest gifts, has most deeply pondered on the greatest problems of life, and has found solutions of some of them which well deserve the attention even of those who have studied Plato and Kant — I should point to India. And I were to ask myself from what literature we, here in Europe, we who have been nurtured almost exclusively on the thoughts of Greeks and Romans, and of one Semitic race, the Jewish, may draw that corrective which is most wanted in order to make our inner life more perfect, more comprehensive, more universal, in fact more truly human, a life, not for this life only, but a transfigured and eternal life — again I should point to India".